

MINUTES
EXETER TOWNSHIP BOARD OF SUPERVISORS MEETING
MONDAY, JULY 27, 2020

Public Meeting

A Regular Meeting of the Exeter Township Board of Supervisors held virtually was called to order on Monday, July 27, 2020 at 7:05 PM by David Speece, Chairperson.

Supervisors Present: David Speece, Chairperson
Michelle Kircher, Vice Chairperson
John Cusatis
Gregory Galtere
Joseph Staub

Absent: None

Others in Attendance: Jeff Bartlett, Township Manager
Clarence Hamm, Highway Superintendent
Laurie Getz, Township Secretary
Lt. Steve Schaeffer, Exeter Police
Joseph Rogosky, Great Valley Consultants, Township Engineer
Thomas F. Oeste, Buckley, Brion, McGuire & Morris, LLP., Counsel for Noise Ordinance Matter

REGULAR MEETING

The Meeting was opened with the Pledge to the Flag.

PUBLIC COMMENTS: Agenda Items

Public comments were submitted in advance of the meeting via email and voicemail. The e-mail comments were dictated by computer software.

Tom Walker; Expressed support for the Promenade Center project. Thinks that current facilities are inadequate. Urges supervisors to take a fiscally conservative approach to the project and would like to see current facilities sold to offset the cost of the project.

John Carmello; Feels that the Promenade Municipal Complex should have been required to be approved by the residents. Does not agree with spending money on the project. Thinks it should be tabled until a town hall can be held. Does not think that Monroe Muffler should be given rent forgiveness. Thinks in-person meetings should be resumed. Does not think that the current Township Solicitor should be considered to be retained. Have cost taxpayers a lot of money.

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REGULAR APPROVALS

Minutes – June 13, 2020

MOTION of Mr. Cusatis seconded by Mr. Galtere, the Board UNANIMOUSLY APPROVED the July 13, 2020 Board of Supervisors Meeting Minutes.

Minutes – July 13, 2020 Public Hearing (1)

MOTION of Mr. Staub seconded by Mr. Cusatis, the Board APPROVED the July 13, 2020 Board of Supervisors Public Hearing (1) Meeting Minutes.

Mr. Galtere abstained because he was not in attendance.

Minutes – July 13, 2020 Public Hearing (2)

MOTION of Mr. Cusatis seconded by Mr. Staub, the Board APPROVED the July 13, 2020 Board of Supervisors Public Hearing (2) Meeting Minutes.

Mr. Galtere abstained as he was not in attendance.

Disbursements – July 27, 2020

Ms. Savage provided some clarifications on the disbursements. AJ Blosenski's monthly bill increased dramatically with the weekly recycling bid last year, this will be reevaluated going forward for next year. Total Recycling charges are for recycling material processing fees. Asphalt Paving is for road work paid out of the Liquid Fuels Fund. McMahan is related to the Perkiomen Avenue Streetscape Project. Fox Rothschild is for May legal fees for various items. Reading Country Club charges are related to legal items Fox is handling with the water damage issue.

MOTION of Mr. Speece seconded by Mr. Staub, the Board UNANIMOUSLY APPROVED payment of the bills presented on the Disbursement List dated July 27, 2020 in the amounts of \$233,566.15 in the General Fund; \$15,748.05 in the Utility Fund; \$1,000.29 in the Fire Fund; \$2,185.52 in the Sewer Fund; \$37,196.96 in the Golf Fund; \$3,720.15 in the RCC F&B Fund; \$6,814.74 in the Promenade Fund; \$140,359.18 in the Debt Services Fund; \$168,263.26 in the State Liquid Fuels Fund.

UNFINISHED BUSINESS

Treasurer's Report - June

Mr. Speece stated that this report has been uploaded to the website.

MOTION of Mr. Staub seconded by Mr. Cusatis, the Board UNANIMOUSLY APPROVED the June Treasurer's Report subject to audit.

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Discussion on Draft Noise Ordinance

PUBLIC COMMENT

John Noll; Asked a question about a Right to Know that he submitted previously requesting a copy of the draft ordinance. He received a response stating that he received an extension due to the pandemic, but has heard nothing further. Asked if the Township has investigated whether or not utilizing motorized cycles on rural land is a zoning violation. Questioned the timing of the publishing of the draft ordinance when his right to know request had not been honored. Would like to see the Board consider how the changes will impact the entire Township.

Mr. Oeste introduced himself as counsel handling the noise ordinance. The issue was raised relating to the zoning ordinance, his opinion is that it is not a violation of the zoning ordinance. The new ordinance was reviewed by Mr. Oeste and he provided clarification to definitions, added prohibited activities during certain timeframes. The riding of dirt bikes is prohibited in a residential zone. **Mr. Oeste's connection was temporarily lost.**

Mr. Galtere asked about the Right to Know matter that Mr. Noll raised. **Mr. Speece** stated that he spoke with Mr. Bartlett about it and he believes he can provide clarification. **Ms. Kircher** stated that she would like to see a list of all Right to Know requests submitted. **Mr. Cusatis** responded indicating that the Board is already provided with such a list in the form of the Monthly Right to Know Report.

Mr. Oeste rejoined the meeting. Continued discussing the Noise Ordinance revisions. Explained that he worked with Chief Morris to ensure that an enforceable ordinance was created. Believe they have reached that outcome.

Sherrie Greene; Asked each Board Member for the record to indicate whether or not they believe it is a conflict of interest to have a partner in the Township Solicitor's firm to argue against the Noise Ordinance in court, and then have another attorney in that same firm working on crafting the new ordinance.

Mr. Oeste responded explaining that he is not affiliated with Fox Rothschild. He does not work for that firm and was retained as special counsel to handle this matter to avoid conflict of interest.

Mike Shade; Discussed the reasonable person standard, thinks it is difficult to enforce because it requires multiple witnesses on the same day. Had 6 witnesses on the day of the last incident, but the responding officer cited under the incorrect section so it was withdrawn. Wants to know why that happened. Complimented the responding officer, but is asking if he was told to cite under the wrong section. Also discussed Section J of the draft ordinance and asked for clarification.

Mr. Oeste responded explaining that there is a section in the ordinance that is not a new change that states it is illegal to tamper with a sound monitoring device. In regards to the reasonable person standard, that is only one aspect of citing on a noise ordinance. It does not take two people to agree. If the noise bothers someone of normal sensitivities the police can cite on that basis. That is just one method of citing under the ordinance.

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Jackie Shade; Asked why the 50-foot setback from a property line was removed from the original ordinance. Mentioned example ordinances that were shared with certain livestock related conditions that they asked be included in this version that have not been. Concerned about domesticated animals.

Mr. Oeste responded stating that he and the Chief agreed that enforcing a 300ft setback is not practical.

John Hubert; Stated that the muffler dissipative devices will not be effective in his situation because the dirt bikes with proper mufflers being used at least 150 yards from his home still produce noise at a high level. Asked why our draft ordinance includes specific times when riding is acceptable, and removed provisions that restrict total number of bikes and duration of permitted riding.

Mr. Oeste clarified that hours when riding is prohibited has been added. As to why it wasn't more restrictive to number of bikes, the reason is that it was felt it would not be easily enforceable.

Carol Laibe; Discussed industrial lawn maintenance equipment and asked if residential lawn maintenance could be prohibited on Sundays and holidays. Also discussed traffic noise on Rt. 422, loud music, loud mufflers, etc.

Mr. Oeste responded explaining that the domestic power tools provision prohibits lawn maintenance on residential properties from 10pm-7am on any given day. We can't regulate use of vehicles on state roadways.

Mr. Speece asked if **Mr. Bartlett** could comment on the Right to Know Request question raised earlier. **Mr. Bartlett** responded that he has looked into it and the request was substantial, and an extension had been issued initially due to COVID. He is following up with the Solicitor to see what the current status is.

Mr. Bartlett stated that we should defer to our Police Department, they will be the ones to enforce it, and our Chief took the lead in working with the attorney on this ordinance and feels comfortable with this version.

Ms. Kircher stated that she does not understand why other townships can include different setbacks, but we cannot? Would like to see us look into other township's ordinances and make sure that we are doing the best that we can.

Mr. Oeste stated that other ordinances were considered. Chief Morris opined that the other setback options would not be enforceable. What is practical is what is being included. The citation being overturned for vagueness was an anomaly in the Chief's opinion. There are other municipalities with more restrictive ordinances, but that is not something that is being recommended by him or the Chief.

Lt. Schaeffer stated that there are challenges with citing based on setbacks. This ordinance allows three different ways for the department to cite someone for a noise violation.

Mr. Staub stated that his only concern is whether or not it is becoming too specific. Enforcement shouldn't be selective. There can be challenges with subjective interpretation. Agrees that it seems like an anomaly the citation being overturned that prompted this re-write.

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Mr. Galtere stated that he and Mr. Speece met with Mr. Oeste and the Chief on June 3rd. His takeaways were that there was no guidance provided on what the court's issue was with our old ordinance. The ordinance has been written so it's not overly broad, or difficult to enforce. It was his recollection that other ordinances were reviewed and compared. He is inclined to trust the professionals who worked on this ordinance and move forward.

Mr. Cusatis stated that he agrees with **Mr. Galtere**. Would support taking the next step.

Mr. Speece stated that the Chief and Mr. Oeste are confident that this ordinance version is the best that can be done at this time, and believe it is enforceable. Posed the question of whether to schedule for adoption or to leave open for further discussion.

MOTION by Mr. Galtere seconded by Mr. Cusatis the Board authorized scheduling the Noise Ordinance for adoption.

Mr. Galtere amended his motion to **MOTION** by Mr. Galtere seconded by Mr. Cusatis Authorizing Advertisement of Public Hearing to Adopt Noise Ordinance on August 10th, 2020.

Ms. Kircher is opposed, her opposition is because the public could not comment in person on this matter.

Mr. Staub is also opposed.

Mr. Oeste left the meeting at 8:00PM.

Update on Community Communications Committee

Ms. Getz and **Mr. Cusatis** discussed that postcards are still being worked on. Will provide an update at the next meeting, and information on potential sponsors.

Ms. Getz explained that the search feature on the township's website has been updated. There used to be ads that would show as the first results when using the search function. That has been eliminated, now only township website content will be displayed when using the search function.

NEW BUSINESS

Discussion on Promenade Shopping Center

Mr. Bartlett discussed issues with insurance that exist at the Promenade Shopping Center. The Township has been notified by its reinsurance carrier that the property cannot be insured. All tenants are currently and have been for some time on a month-to-month lease. Mr. Bartlett is recommending that the Board authorize the administration to provide notice to existing tenants to vacate the building, and then to move forward with bids for demolition of the structure. Staff are working on coordinating with the businesses to offer assistance through this process. The Monroe Muffler building is on a separate lease from the rest of the businesses.

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Mr. Staub asked for clarification on whether the township has any insurance coverage on the property. **Mr. Bartlett** stated that there is no insurance currently because of the reinsurance issue. When the property was purchased, it was assumed that it would be demolished. The process has taken longer than anticipated. **Mr. Staub** stated that there is tremendous liability with there being a lack of insurance, so there is not much choice. **Mr. Bartlett** stated that the township's insurer is working on a quote to insure Monroe. **Mr. Staub** asked about the car wash and dry cleaner. **Mr. Bartlett** will look into those and make a separate recommendation.

Mr. Cusatis asked about the timeframe for asking the tenants to vacate. **Mr. Bartlett** stated that the leases are month to month, we will work with the business owners directly.

Ms. Kircher stated that she believes that an inspection should be done on the Monroe building to identify any potential issues. **Mr. Bartlett** confirmed that we will have it inspected.

Mr. Hamm stated that there are code issues with the car wash property relating to trash.

Mr. Staub clarified that the tenants of the Giant building side will be notified soon, the others will be notified pending outcome of inspection of that facility. Confirmed that there are currently 4 tenants on the Giant side of the property.

MOTION of Mr. Staub seconded by Mr. Galtere the Board UNANIMOUSLY APPROVED Giving 30-day's notice to the 4 remaining tenants of the strip-center side of the Promenade Shopping Center.

Ms. Kircher stated that there are other properties in Exeter that we could try and connect them with.

MOTION of Mr. Speece second Mr. Galtere the Board UNANIMOUSLY APPROVED to seek bids for demolition of the Promenade Shopping Center property.

Mr. Staub stated that getting bids won't cost us anything, thinks it makes sense to at least see what the cost will be to get rid of the building.

Mr. Galtere stated that he thinks we should review what rent we are charging them, asked if the Board might want to discuss waiving rent for the tenants to try and help them. **Mr. Speece** agreed, and asked **Mr. Bartlett** to discuss that with the tenants when he contacts them about their leases ending.

Ms. Getz asked that the motion relating to the noise ordinance discussion be amended to reflect authorization to advertise public hearing. This amended motion is reflected under the noise ordinance discussion.

Discussion on Municipal Complex Architectural Request for Proposals (RFP)

Mr. Bartlett explained that the Board previously asked KCBA architects to submit an amended proposal to conduct a full review and feasibility study for the municipal complex project, on an hourly consulting basis. Each department is also working on putting reports together to help the architect determine what type of space is needed. Asking the Board to approve KCBA conducting this study.

Mr. Galtere stated that this makes sense to him. He would like to have professional information before holding a community meeting to discuss. **Mr. Cusatis** agreed.

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Mr. Bartlett stated that KCBA included in their proposal holding public meetings to involve the public in the process and receive input of our residents.

Mr. Staub stated that he also would like to have a community meeting. He is hoping to hear information on the community center. He knows that the township needs new facilities. He would like to get a better feel for whether or not the community center should be included. COVID poses a challenge to this process, of course, but would like to come up with a way to get the information from residents. He will not approve breaking ground without community involvement.

Mr. Galtere stated that in his mind the community center is separate. His focus is on township operations at this point, would need to see substantial information on the community center prior to making a decision on that. **Mr. Speece** stated that it will come down to prioritizing.

Ms. Kircher stated that she believes that we need to be practical. We haven't yet seen how COVID will impact our economy. Doesn't think we should have sold the sewer plant, and would not like to see us spending all money in the same place.

Mr. Bartlett mentioned the community survey done last year that demonstrated support for a community center and new municipal complex. **Ms. Getz** confirmed that the survey conducted last year did indicate that there was community support for a community recreation center. Would be happy to continue to work on creative methods of obtaining community input.

MOTION of Mr. Speece seconded by Mr. Galtere, the Board APPROVED authorization for KCBA Architects to complete a feasibility study on a new Municipal Complex.

Ms. Kircher is opposed, based on the inability to have in-person meetings.

Mr. Speece stated that he thinks KCBA may have creative ideas on how to involve the public.

4575 Perkiomen Avenue Time Extension Request

Mr. Rogosky explained that Martin's Appliance has requested a time extension. They were previously granted a time extension of 180 days, which will expire August 12th. Martin's is requesting an additional time extension requiring Board approval per SALDO. Requesting a 1-year time extension due to challenges posed by COVID-19. The Planning Commission has no objection due to the pandemic, and feels Martin's is showing good faith.

MOTION of Mr. Galtere seconded by Mr. Cusatis, the Board UNANIMOUSLY APPROVED a one-year time extension for preliminary plan submission.

Preliminary Plan Approval – 10 Santa Maria Drive

Mr. Rogosky explained that at the last planning commission meeting a recommendation was made that the plans go before the Board for preliminary plan approval, conditional upon them meeting recommendations made by the planning commission. Recommending that the Board approve the preliminary plan at this time.

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MOTION of Mr. Speece seconded by Ms. Kircher, the Board UNANIMOUSLY APPROVED preliminary plan approval for 10 Santa Maria Drive.

Consider Request from Monroe Muffler for May Rent Forgiveness

Mr. Bartlett explained that Monroe Muffler has requested rent forgiveness for May, and a 5-year lease extension at current rates. At this point Monroe has not paid rent since April. It is his recommendation that the request not be granted.

Mr. Cusatis asked if we ever received the information requested when they initially requested rent forgiveness. **Mr. Bartlett** stated that we have not.

Mr. Speece is not in favor of considering this request. **Mr. Staub** agreed.

MOTION of Mr. Galtere seconded by Mr. Staub, the Board UNANIMOUSLY APPROVED Denying Monroe Muffler's request for May rental forgiveness and 5-year lease extension.

Authorize Advertisement of Board of Supervisor Meetings

Mr. Bartlett explained that based on the current state guidelines and restrictions on in-person gatherings, it is his recommendation that we advertise the next three month's meetings virtually. Should something change and we become able to hold in-person meetings, we will re-advertise. It makes more fiscal sense to advertise in bulk rather than one by one.

MOTION of Mr. Cusatis seconded by Mr. Galtere, the Board UNANIMOUSLY APPROVED Authorization for advertisement of the August, September, and October Board of Supervisor meetings to be held virtually.

Discussion on Township Solicitor Request for Proposals (RFP) Responses

Mr. Speece explained that a few meetings ago two supervisors were appointed to a committee to review the RFP's. **Mr. Staub** explained that he and **Ms. Kircher** reviewed all of the RFP's that were submitted. They made a recommendation and asked Mr. Bartlett to do a reference check on their selection, the references came back glowing. Their recommendation is to go with Hartman, Valeriano, Magovern and Lutz. They are a firm out of Wyomissing specializing in municipal law. They submitted the lowest bid. They feel that having someone local who specializes in municipal law is the best choice.

Ms. Kircher agreed with Mr. Staub's comments. She has attended various conferences and events when this firm has appeared and they have given a good impression.

Mr. Bartlett confirmed that he personally conducted reference checks on the firm and received great feedback.

Mr. Cusatis stated that he had expressed concerns with some of the other firms that submitted proposals. Thanked Mr. Staub and Ms. Kircher for their work. He will be voting no because he feels that

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it would be better to stay with Fox Rothschild for the balance of the year. Thanked Fox Rothschild for all of their help over the years.

Mr. Galtere stated that he supports the recommendation made by Mr. Staub and Ms. Kircher.

Mr. Speece stated that he agrees as well, thanked Mr. Staub and Ms. Kircher. Thanked Fox Rothschild for all of their work. Understands that they will be finishing out some work and will coordinate with Mr. Bartlett.

MOTION of Mr. Staub seconded by Ms. Kircher, the Board APPROVED appointing Hartman, Valeriano, Magovern and Lutz as Township Solicitor.

Mr. Cusatis is opposed.

DEPARTMENT REPORTS

Lt. Steve Schaeffer; Police Department: New hires are doing very well. Sergeants exam coming up this weekend, wished all of the officers who are testing good luck. Discussed the plane that landed on Rt. 422 recently, commended the officers for their work.

Clarence Hamm; Highway Department: Just completed last large paving project on Lincoln Road, only one small paving project to finish out the year. They are also doing a lot of parks work.

Ms. Getz explained that we recently received feedback on the DCED grant application that we submitted, which included two parks, Farming Ridge and Pineland Park. We've been informed that they are not giving priority to applications containing plans for more than one park, this could be due in part to reduced funding. We are amending our application to focus just on Pineland Park as it is in more need. The total application will be for a reduced amount, which will also mean a reduced match on our part. We just need an updated resolution as part of the application. This is a time-sensitive matter that came up late.

MOTION of Mr. Speece seconded by Mr. Cusatis, the Board UNANIMOUSLY APPROVED Resolution Authorizing the Greenways, Trails, and Recreation Program Grant Application to DCNR in the amount of \$171,174 for improvements at Pineland Park.

ENGINEER REPORT

Joe Rogosky, Great Valley Consultants: Nothing to report.

MANAGER REPORT

Jeff Bartlett, Township Manager: Explained that a time-sensitive matter came up after the publication of the meeting agenda that requires action. Allegations of criminal conduct have been made against a current Board Supervisor and that Supervisor is requesting that the Township pay for legal fees relating to the matter. The Township is responsible for mere allegations of criminal conduct Supervisor during an investigation. Should the Township decline to pay, they could potentially be held responsible for legal fees related to the investigation as well as any fees incurred related to the Board's refusal to pay for

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representation. If there should be a not guilty finding the Township could potentially be reimbursed. The Township previously approved such representation for a former supervisor.

Ms. Kircher asked for clarification if this involves a current or former supervisor. **Mr. Bartlett** confirmed that this action is related to a current supervisor.

MOTION of Mr. Galtere seconded by Mr. Staub, the Board APPROVED authorizing the Township to provide public defense

Ms. Kircher is opposed.

Mr. Bartlett explained that the administration has implemented some additional measures to protect all staff from COVID. Some staff are working from home on a rotational basis. The staff are able to continue operations while working remotely, and it has been working very well. Complimented the staff on their work.

PUBLIC COMMENT – General Comments

Public comments were submitted in advance of the meeting via email and voicemail. The e-mail comments were dictated by computer software.

No general comments were submitted for this meeting.

SUPERVISOR REPORTS

Mr. Cusatis: Everyone stay healthy and cool.

Mr. Staub: Working on scheduling the meeting on Community Park with the School District and St. Lawrence for August 10th. Rounds and revenue are both up at the Reading Country Club. Rounds for July are up 202 year over year. Hoping to start discussing the preliminary budget in the next several meetings. Would also like to review the debt structure and take advantage of lower rates if possible.

Ms. Kircher: Stated that she appreciates the police and all of their work. Is hearing a lot of positive feedback on the department.

Mr. Galtere: Provided an update on the Hack Away at Hunger Tournament, raised \$15K for local food pantries, \$11K went directly to the Exeter Area Food Pantry. Shared a text message from a volunteer at the tournament, the volunteer expressed appreciation for the RCC staff.

Mr. Speece: Thanked Mr. Bartlett and the township staff for their work.

ADJOURNMENT

MOTION of Mr. Cusatis, seconded by Ms. Kircher, the meeting adjourned at 9:10 PM.

Respectfully Submitted,

Laurie Getz
Township Secretary

DRAFT