



Allen Township Board of Supervisors

Meeting Minutes June 28, 2022 7:00 P.M.

A General Meeting of the Allen Township Board of Supervisors was held on Tuesday, June 28, 2022 at 7:00 P.M. at the Allen Township Fire Company Building, located at 3530 Howertown Road, Northampton, PA. Mr. Hassler led the audience in the Pledge of Allegiance to the Flag.

1. Roll Call: Present: Gary Behler; Dale Hassler; Paul Link; Jason Frack; Tim Paul; B. Lincoln Treadwell, Jr., Esq.; Ilene Eckhart, Manager; Maurin Ritinski, Admin. Asst.; and Andrea Martin, EIT. Absent: Stan Wojciechowski, PE, CME.

2. Announcements and/or Actions to Add New Items to Current Agenda:

Ms. Eckhart announced that a meeting has been scheduled for July 13th at 10am to discuss non-conforming issues regarding the Lappawinzo Fish and Game Protective Association. Those in attendance at this meeting will include Ms. Eckhart, Mr. Treadwell, representatives of the Lappawinzo Fish and Game Protective Association, along with their counsel.

Ms. Eckhart requested that the Board consider making a motion to add an item to the agenda. Ms. Eckhart reports that she has prepared a statement of property history for 3742 Kreidersville Road. She reports that she had requested a legal analysis regarding this property and the prepared statement. Ms. Eckhart stated that the Board may wish to discuss this further or have Mr. Treadwell explain the legal analysis. Mr. Behler made a motion to add this item to the agenda for discussion, seconded by Mr. Link. On the motion, by roll call vote, all Supervisors present voted yes.

3. Public Hearings: No public hearings.

4. Public to be Heard:

Gene Clater, 75 Arrowhead Lane, questioned the Board of what was to be discussed related to the newly added item to the agenda relating to Aqua Pools. Mr. Treadwell stated that this discussion was going to be an overview of his legal analysis of the property. Mr. Clater asked if discussion from the audience would be permissible on this topic. Mr. Paul offered Mr. Clater the opportunity to speak before Mr. Treadwell's statement. Mr. Clater stated that he would prefer to be a part of the discussion. He continued to state that many residents have been aggrieved by this situation for 6 months now. Mr. Clater believes that the Board has radically overstepped the boundaries of what is acceptable. Mr. Behler requested to go over the agenda topic during Public to be Heard in order to allow Mr. Clater the chance to speak.

Mr. Treadwell stated that Ms. Eckhart prepared a factorial history and had forwarded this to Mr. Treadwell with a request for a legal opinion. After review, Mr. Treadwell prepared a memo. He stated

that a pool business has been located at this property since approximately 1988; 34 years. It is currently a non-conforming use meaning that it would not be permitted in this zoning district if was started today. Mr. Treadwell explained that the business is entitled to certain protections due to it being a non-conforming use. He further explained the reasoning for it being classified as non-conforming in that Allen Township had changed the zoning ordinance at least 3 times. Mr. Treadwell stated that he visited the site along with Ms. Eckhart. Mr. Treadwell believes that the use of the property as it is conducted today does not violate the zoning ordinance in anyway after his review of the history, the site visit, and review of aerial photographs of the property. He further explained that non-conforming use businesses have a right and expectation to grow their businesses. Mr. Treadwell stated that this business falls under the Doctrine of Natural Expansion of Non-Conforming Use. He clarified that he believes that at this point in time there is nothing for the Township to do regarding this business.

Mr. Clater believes this is an industrial use business and continued to defend his opinion of how the business is operating against the zoning ordinance. He mentioned the lack of buffering, lack of paving, and noise among other things. Ms. Eckhart stated that a zoning permit application, which has not yet been reviewed, was submitted by the property owner this morning for additional buffering. Mr. Clater reiterated that he would like to see the zoning ordinance enforced. Mr. Clater confirmed that a notice of violation from the Zoning Officer is what he was requesting, along with a hearing before the Zoning Hearing Board. Mr. Treadwell stated that the Township does not believe a violation has occurred and therefore a notice of violation will not be issued. Mr. Clater stated that he disagrees. He stated that there are many residents who would like to see this corrected, while one or two residents would not get involved due to fear of “repercussions from the Township”. Mr. Treadwell questioned what repercussions Mr. Clater was referring to. Mr. Clater responded that he was told by those who did not want to be involved with this complaint that the Township would seek out violations on those who voiced their concerns.

Mr. Clater then read an email that he says was mistakenly sent to him by Mr. Hassler. The email referenced Mr. Clater’s 0.97 acre lot and the 1 acre minimum lot size required to build in the rural zone. Mr. Hassler addressed this email stating that Mr. Clater is relentless and his lot is also non-conforming. Mr. Treadwell stated that this issue has been ongoing for the last 6 months with Mr. Clater constantly contacting Ms. Eckhart and Mr. Treadwell regarding such despite there being no violation. Mr. Behler stated that a solicitor is hired by the Township to give legal advice. Mr. Behler believes it would be unwise to go against the Township solicitor’s advice. Mr. Link stated that he doesn’t believe the Board should go against the Township Solicitor’s opinion and Zoning Officer’s opinion. Mr. Paul also agreed. Mr. Treadwell stated there is no action for the Board to take.

5. Unfinished Business

A. Request for Proposals for Facilities Study – Status/Update #3 – Proposals Received: Ms. Eckhart provided an update on the request for proposals. She stated that last Friday at 1PM was the deadline for submissions and responses were received from 5 firms. She noted that all filled in the line items with the exception of one firm – D’Huy Engineering. D’Huy Engineering had a caveat in their proposal for a split proposal which would include wavering of fees if selected for the design phase. Ms. Eckhart informed the Board that the next step in the process would be for the Board to decide if would like to interview any of the firms. Ms. Eckhart provided the facilities study RFP rates provided by the 5 firms.

	Schrader Group	Spillman Farmer	D'Huy Engineering	Alloy5 Architecture	MKSD Architects
1. Conditions Survey and Costs	\$11,860.00	\$21,350.00	\$0.00	\$3,200.00	\$18,460.00
2. Space Utilization	\$5,300.00	\$7,250.00	\$0.00	\$3,200.00	\$2,700.00
3. Reconstruction & Repair Recommendations	\$6,560.00	\$9,400.00	\$0.00	\$6,400.00	\$8,360.00
4. Conceptual Design, Options and Costs for 5-year plan	\$22,820.00	\$9,050.00	\$0.00	\$12,800.00	\$12,520.00
5. Energy Savings	\$1,120.00	\$1,100.00	\$0.00	\$1,600.00	\$1,120.00
6. Report Preparation	\$5,865.00	\$7,600.00	\$0.00	\$3,200.00	\$2,340.00
7. Presentation	\$3,380.00	\$3,550.00	\$0.00	\$1,600.00	\$2,980.00
TOTAL COST FOR SERVICES	\$56,905.00	\$59,300.00	\$9,500.00* / \$19,000.00	\$32,000.00	\$48,480.00
		Note 2	Note 1		

Note 1: D'Huy split proposal into 2 Parts. Items 1, 2, 3, 5 as Part 1. Items 4, 6, 7 as Part 2. Per D'Huy Proposal Part 2 of Facilities Study Fee (\$9,500.00) is to be waived if the Project proceeds into the Design Phase with D'Huy selected to provide services and assist the Township with Design & Implementation through the Construction Phase. **Note 2:** Spillman Farmer proposed to use Ondra Huyette as an alternate to cost estimate. This would be an additional fee of \$4,000.00. Spillman Farmer estimates reimbursements to be around \$600.00.

Ms. Eckhart stated that this is a different kind of selection since this is a professional consulting service. The Board is able to interview and make a decision based on the firm's capabilities to perform the work. After a brief discussion, it was decided that two Supervisors would sit in for the interviews. Ms. Eckhart suggested that if additional follow up questions results in a second interview being needed, a different set of Supervisors could attend. Mr. Link and Mr. Frack volunteered to attend the initial interviews. Mr. Hassler volunteered to be an alternate. The Board discussed which firms to interview and decided to interview the three lowest bids. Ms. Eckhart stated she can contact the references provided by the firms. Mr. Behler requested an example from each of similar work the firm has completed. Mr. Link made a motion to interview D'Huy Engineering, Alloy5 Architecture, and MKSD Architects, seconded by Mr. Behler. On the motion, by roll call vote, all Supervisors present voted yes.

B. W. 27th Street Paving Improvement Status: Ms. Eckhart reported that she has spoken with the financially responsible person for this project due to another plan submittal for another project. The Township had previously made it clear that the W. 27th Street paving improvements were to be completed by the end of August 2022. Ms. Eckhart also noted the issue of the re-recording of the Towpath plan due to the change in the stormwater system, which was waived by the Board several months ago. She reported that the plans have been provided to the Township engineer along with revised estimates. Ms. Martin confirmed that this has been received by her office and the plans and estimates are being reviewed. Ms. Eckhart reported that the conditions of approval were sent to the applicant but have not been signed. Mr. Behler questioned if escrow was secured for this. He also mentioned how prices have changed significantly over the past year. Mr. Behler would like to confirm the escrow

amount available and make sure that it is equivalent to the current costs so that the Township does not have to cover the cost. Mr. Hassler spoke of the promises the developer has made regarding the completion of the paving. Mr. Treadwell stated that this issue goes back to 2013. Mr. Hassler is not pleased with the developer submitting plans for a new development while this remains incomplete. He stated that there are people living in Towpath Estates and they are paying their taxes to use a beat up road to access their homes. Ms. Martin stated that the plans that were submitted in December were not accurate and that her office received the revised plans on Friday. Her office will review for acceptability and ensure that the estimates matches the revisions. Mr. Behler made a motion to send a letter to the developer as a reminder of the deadline for completion of the W. 27th Street paving improvements being the end of August 2022, seconded by Mr. Link. On the motion, by roll call vote, all Supervisors present voted yes.

C. Tapping Fees and Reservation Fees Initial Analysis: Ms. Martin has reviewed the tapping fee calculations. She provided the Board with a report that she had updated from the 2013 document that the previous engineer had prepared at that time. Ms. Martin explained that Act 57 of 2003 sets the parameters for how a municipality sets a tapping fee. She further explained the three components (tapping fee, connection fee, and customer fee) that can be charged to residents and property owner for connecting to public sewer. Ms. Martin explained how the tapping fee can be updated to current standards and reported that Allen Township's fee has not been updated in approximately 9 years. She explained that for the tapping fee calculations it is permitted to trend forward certain costs. Ms. Martin stated that the tapping fee for the Township portion is currently \$500.00 and the new calculations for the Township portion is \$1,320.00. She reported that the Borough portion, which is set by the Borough, is \$5,070.00. She noted that the Borough's portion has also increased roughly \$2,000.00 in the same timeframe. Ms. Martin stated that given the two calculation amounts, the Township portion that a property owner would pay to be connected to Northampton Borough is \$6,390.00 per EDU. Ms. Martin explained that the Township may set a lower tapping fee if they choose but may not exceed the calculation amount. Ms. Martin continued that she believes the 2013 calculations resulted in a tapping fee amount of approximately \$1,000.00 but the Township had decided to set it at \$500.00 at the time. Mr. Behler noted the substantial increase and asked Ms. Martin of her thoughts on the calculation amount. Ms. Martin answered that the calculations include all aspects allowed legally and the Township would be well justified in setting the fee at this amount. Mr. Treadwell explained that the Board would need to adopt a new ordinance to change the fee amount. The Board would need to provide Mr. Treadwell and Ms. Eckhart a fee amount between the current amount (\$500.00), and the calculated amount (\$1,320.00), and in order for an ordinance to be drafted. Once the ordinance is drafted, it would need to be advertised and adopted. The ordinance adoption would note the effective date as 5 days from the date of adoption. Mr. Treadwell also spoke of a grace period where the Board may choose to announce a new tapping fee ordinance adoption date well in advance in order to give residents and developers the option to buy EDUs ahead of the fee change. The Board requested this topic be placed on the agenda for next month in order to further discuss the tapping fee amount. Ms. Eckhart and Ms. Martin will calculate the expected number of tapping fees that are expected in the next 5 years.

Ed Deichmeiser, Lehigh Valley Builders, 700 Sipos Drive, asked for clarification of what fee was being discussed. Mr. Treadwell explained that the developer usually installs the other two pieces (connection fee and customer fee) which are not charged for unless the Township installs these components. Ms. Martin explained the tapping fee is for capacity not infrastructure. Mr. Treadwell explained that the Township uses the fees collected for sewer related maintenance and repairs.

Tim Tepes questioned the phase his development was in. Ms. Martin explained that the tapping fees will still need to be paid for the undeveloped lots. Ms. Martin informed Mr. Tepes that as of today the tapping fee has not increased.

D. Public Sewer Service (EDU) Request Letters – Various Properties/Developments:

Ms. Martin reported that a number of developers have submitted requests for EDUs given that the agreement with Northampton has been signed for the minimum of 320 EDUs. She reports that all requests and interest in EDUs to date was accounted for in the Act 537 plan.

For the Act 537 plan, North Hills had 71 EDUs remaining. Ms. Martin reports this number is actually 66 EDUs remaining to be built. This is due to a difference in what was planned for, what was built, what is remaining, and what was requested. Ms. Martin explained that the total for the whole development was 186 EDUs and that Section A is complete. Section B was submitted for 86 EDUs and currently has 20 EDUs built and 66 EDUs remaining. After a stormwater revision, two lots that showed a duplex was revised to a 4 unit townhouse. Two of these lots do not have sewer approval. The request was for 71 EDUs leaving 3 EDUs unaccounted for. Mr. Tepes questioned the count. Ms. Martin will look into this and discuss her findings with Mr. Tepes.

Ms. Martin reports calculation confusion regarding Stone Ridge as well. Ms. Martin reports that the EDU request was not submitted prior to the Act 537 being finalized. She stated that sewer planning module approval will be needed for 90 EDUs.

High Meadows is in the design phase and was accounted for 135 EDUs.

No official request has been received from Quarry Hill Estates. Ms. Martin reports the total remaining EDUs is 26.

Towpath Estates was granted a special agreement for EDUs and are not factored into the 320 EDUs since they were approved before the Act 537 Plan was finalized. The EDUs for Towpath Estates are planned for although no official request or a payment has been received.

Ms. Martin reports that the Northampton Area School District has been planned for with 40 EDUs. She notes this was a large estimate. Ms. Martin states she was asked to review their water use data. After this review, Ms. Martin believes they will be closer to 13 EDUs. This is not factored into the 320 EDUs. Ms. Martin states that this will require a separate intermunicipal agreement with Northampton Borough, Allen Township, and East Allen Township.

Ms. Martin reports that the total of the 320 minimum EDUs is 251 EDUs. Mr. Behler questioned if payment was required when a request is made. Ms. Martin explained that a request for EDUs does not take away EDUs from other entities due to there being a minimum of 320 EDUs. In the case of Stone Ridge requesting an additional 90 EDUs and not having this planned for in a planning module or the Act 537 Plan, the developer will need to fill out the planning module application mailer. Ms. Martin stated that they would not receive an exemption and that planning module component three would be required. Mr. Treadwell clarified that the requested 90 EDUs are not guaranteed.

Mr. Behler voiced his concerns regarding the 10-year expiration date. Mr. Treadwell responded that the approval from DEP of the Act 537 Plan has not been received yet and it will take some time. He stated that the DEP may or may not have an opinion of the 10-year limitation. Ms. Martin stated she believed the 10-year limit was on the rate structure and not the availability of EDUs. Ms. Martin reported that she has drafted an agreement that could accompany a resolution to require a specific percentage upfront of the tapping fee to reserve capacity. Ms. Martin said that this would encourage a full purchase. She will look into other municipalities handle this and prepare a draft for the next meeting.

Mr. Tepes stated that Scott from DEP had informed him that there was no expiration date on EDUs. He continued to explain his agreement with the Township being that EDUs are paid for at closing. This lead to a short discussion on the disadvantages of single EDUs being bought and availability. Mr. Treadwell stated that it would make the most sense to have developers buy and secure EDUs so that there is no question of availability. Mr. Deichmeiser stated that he would be supportive of a percentage down to reserve EDUs.

6. New Business

A. Replacement of Kuhn Flail Mower: Ms. Eckhart reported that a few weeks ago there was a malfunction of the PTO solenoid on the 2015 John Deer tractor. Tom Gogle addressed the Board and stated that he believes a bearing seized up on the 2006 Kuhn Flail Mower along with a malfunction with the tractor. Mr. Gogle reported that the operator did not catch this fast enough. This resulted in the crew being unable to disconnect the tractor and the mower. He reported that the operator tried to drive the tractor back to the shop from Howertown Road but the crew had to tow it back with the loader. Mr. Gogle reports that the tractor is now fixed. He noted that the Kuhn mower has been repaired many times in the past 20 years. Mr. Gogle stated that the damage is repairable. Ms. Eckhart noted the price for parts would be about \$7,000 plus shipping. She also noted the availability of parts is questionable.

Mr. Behler asked Mr. Gogle if there was anything that was learned to prevent similar events since this was partly operator error. Mr. Gogle hopes the operator learned from the mistake. Mr. Hassler stated the key would have been to just get it off the road and shut the tractor off which would stop the PTO. Mr. Gogle reports they did try to disconnect the PTO but this resulted in a Public Works employee being injured.

Mr. Link stated he believes the mower should be replaced with a new one and the old one sold as-is. The Board requested that Mr. Gogle look into trade-in options. Ms. Eckhart informed the Board that a replacement would not be possible until the spring due to supply chain problems. In the meantime, the small Case will be used. Ms. Eckhart mentioned that this will be more time consuming and she feels that it is a greater safety risk to use. She noted that it is an older tractor and slow moving. Mr. Gogle explained to the Board the difference in the two quotes relating to the equipment type, brand, and the estimated delivery dates. Mr. Link made a motion to obtain a trade-in estimate from both vendors and proceed with a replacement flail mower for the lowest overall cost, seconded by Mr. Paul. On the motion, by roll call vote, all Supervisors present voted yes.

B. Mobile Temporary Radar Speed and Message Board Signage – Grow NorCo Grant Application/ARP Funds Match: Ms. Eckhart proposes mobile temporary radar speed signs be purchased by the Township. She noted that these would be trailer mounted units that include the

capability to convert to message boards. Ms. Eckhart hopes that if approved, Allen Township and Lehigh Township would coordinate sign usage for traffic calming on shared routes. Ms. Eckhart reported that a grant application time frame is opening up for the Northampton County Grant Grow Program with a deadline set for the end of July. This grant is a dollar for dollar match. Ms. Eckhart suggest pursuing two signs under this grant and should funding be received, she recommends utilizing the American Rescue Plan funds. Ms. Eckhart mentioned an added benefit of the signage being that it would increase visibility for the Public Works crew when they are doing work on and along the road, including in developments. Ms. Eckhart referenced the approval process that PennDOT requires for this type of signage use along state roads. She noted that Lehigh Township does place signage on state roads. PennDOT does not allow fix mounted units due to the increased likelihood of drivers becoming complacent. Ms. Eckhart stated that the use of this signage is a traffic calming measure without infrastructure changes. Ms. Eckhart is requesting authorization from the Board to apply for the grant and compose a letter of evidence of matching funds (from ARP) for the dollar for dollar match. Mr. Behler made a motion to proceed with applying for the NorCo Grant, seconded by Mr. Paul. Mr. Hassler stated that the total cost for the signage is \$35,970 and the Township would be responsible for half of the cost (\$17,985). On the motion, by roll call vote, all Supervisors present voted yes. Mr. Frack made a motion to have an evidence of funding letter composed, seconded by Mr. Behler. On the motion, by roll call vote, all Supervisors present voted yes.

C. Purchase of Additional AED’s Township and Fire Co Equipment – ARP Funds: Ms. Eckhart addressed the Board and stated that she would like to pursue the purchase of additional AEDs as another use of the American Rescue Plan funds. There are currently AED units at the Fire Company, on the fire trucks, and at the Municipal Building and garage. She reports that she would like to purchase 7 more units in order to replace older existing AEDs. Along with the units, she is requesting the AED kits to be equipped with extra electrode pads and child sized pads. The AEDs would be Defibtech Lifeline Semi-Auto AEDs with a Long-Life 7-year battery. Ms. Eckhart would like all units to have the same battery lifespan to make routine maintenance and battery replacements easier to keep track of and consistent. She reports the total cost for 7 units would be \$9,182 from the American Rescue Plan fund. Mr. Behler made a motion to proceed with the purchase of 7 AED units and to utilize the American Rescue Plan funds for the purchase, seconded by Mr. Frack. Ms. Eckhart informed the Board that some of the AEDs will be deployed to the Public Works trucks. She also notes that Township staff have all been trained in the use of AEDs. On the motion, by roll call vote, all Supervisors present voted yes.

- 7. **Public to be Heard:** No public comment.
- 8. **Adjournment:** There being no further comments or business the meeting adjourned at 8:23 PM.

Respectfully submitted,

Ilene M. Eckhart