

PUBLIC MEETING MINUTES

July 24, 2017

*A court reporter was present at the request of Provco Pinegood Sumneytown LLC. during a portion of the Public Meeting. The transcript produced by the court reporter and attachments from the presentations are available from the Township.

KENNETH E. KROBERGER, PRESIDENT
Finance/Personnel/Administration

1. Call to order.

The July 24, 2017, Public Meeting of the Board of Commissioners was called to order at 7:30 PM 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
Thomas A. Duffy	Commissioner
Steven C. Sands	Commissioner
Leonard T. Perrone	Township Manager
Michael J. Lapinski	Assistant Township Manager
David Brill	Finance Director
David W. Duffy	Police Chief
Russ Benner	Township Engineer
David Onorato	Township Solicitor

Mr. Kroberger announced that the Board met in Executive Session to discuss a matter with our conflicts solicitor on legal issues prior to the meeting. He then suspended the Public Meeting and opened the Public Hearing.

2. Public Hearing

The purpose of this hearing is to hear comment pursuant to the Township authorizing the execution of a Cable Franchise Agreement between the Township and Comcast of Southeast Pennsylvania, LLC

Brief explanation of the Ordinance by Dave Onorato, Township Solicitor

Mr. Kroberger read the purpose of the Public Hearing and entered the three (3) exhibits for the record. He then turned it over to Mr. Onorato.

Mr. Onorato explained that we currently have a nonexclusive franchise agreement with Comcast. We had a 10-year agreement with a 5-year extension beginning in 2005. We are in the middle of that 5-year extension. This is similar to what we have had in the past. This contract was negotiated by Cohen Law Group. He gave an overview of some key points of the contract. This contract goes through 2025. Mr. Perrone noted that this is in conjunction with the Consortium of Municipalities in Southeastern Pennsylvania.

Exhibits:

- T1: Proof of Publication for Legal Advertisement published on July 7, 2017.
- T2: Ordinance No. 2017-006
- T3: Cable Franchise Agreement

3. Request for public comment

Mr. Kroberger asked for comments in opposition of Cable Franchise Agreement. There were no comments.

Mr. Kroberger asked for comments in favor of the Cable Franchise Agreement. There were no comments.

4. Motion to close the Public Hearing and resume the Public Meeting

Hearing no questions or comments, upon motion of Mr. Kroberger, seconded by Mr. Duffy, the motion to close the hearing and resume the Public Meeting was approved.

5. Motion to approve the Minutes of the Workshop Meeting held June 20, 2017

Mr. Kroberger noted that the Workshop Meeting Minutes were received with the Agenda packet. Hearing no questions or comments, upon motion of Mr. Santi, seconded by Mr. Sands, the Minutes of the June 20, 2017 Workshop Meeting were approved as presented.

6. Motion to approve the Minutes of the Public Meeting held June 26, 2017

Mr. Kroberger noted that the Public Meeting Minutes were received with the Agenda packet. Hearing no questions or comments, upon motion of Mrs. Edelmayer, seconded by Mr. Duffy, the Minutes of the June 26, 2017 Public Meeting were approved as presented.

7. Motion to approve the Department Reports filed by Township Staff.

Mr. Kroberger asked for comments or questions. Hearing none, upon motion of Mr. Duffy, seconded by Mrs. Edelmayer, the Departmental Reports were approved as submitted.

8. Presentation of public comments and concerns (limit of five minutes per individual).

Darren Grose – 115 Hancock Place. Ms. Grose asked, was the basin (Pennbrook Basin #3) ever regraded? Mr. Benner replied that he met with the contractor last Thursday and we reached an agreement of what we are going to do. We are regrading the basin and we are cutting a gap in the berm and directing the water into the outlet and taking additional soil to fill in the low areas to address the water ponding. The contractor will regrade the area in front of the outlet head wall. The area with the new plugs will not be changed.

David Brooman – Attorney for Merck from High Swartz Law Firm. He wanted to clarify that he will have an opportunity for comment on item #20 when we got to that point. Mr. Kroberger replied yes.

9. Commendation of Dr. Allan Xu - Presentation by Chief Duffy

Chief Duffy said we don't actively solicit for donations. He also said the Police Department takes fraud complaints on a daily basis. Dr. Xu reported a fraud loss of \$838,825.00 in April 2017. Ray Royds of the Upper Gwynedd Township Police Department investigated and obtained information that validated a theft had occurred and how the theft occurred. This information was shared with Federal Authorities and they made an arrest. Dr. Xu's bank restored all his money to him. On June 27, 2017, he expressed his appreciation to the Police Department with a \$50,000.00 donation. The Upper Gwynedd Township Police Department recognized Dr. Allan Xu for his generosity. These donated funds will be used primarily for the continuation of several community related programs, particularly the DARE program.

Dr. Xu shook hands with the members of the Board and Mr. Kroberger and the Board of Commissioners thanked him for his generosity on behalf of the residents of Upper Gwynedd.

10. Recognition of John Brinkmann for 20 years of service to the Township (not in attendance)

Mr. Kroberger said monthly we have the honor of recognizing employees who have met milestones in employment with the Township. Unfortunately, Mr. Brinkmann was unable to attend. He has been an officer in the Police Department for 20 years.

11. Motion to Approve the Revised Parental Leave Policy

Mr. Brill (Finance Director), gave the background of how this policy came to be. We have a current employee who is expecting his first child and he asked about time off when the baby is born. Mr. Brill explained that he can use vacation time, sick time or FMLA. Mr. Brill realized that we did not have a policy in place for parental leave. He proposed this policy, which was reviewed by our attorney and now it is being presented to the Board for consideration.

Hearing no questions or comments, upon motion by Mr. Santi, seconded by Mr. Sands, the motion was unanimously approved.

M. CLARE EDELMAYER, VICE PRESIDENT

Public Works/Parks/Recreation

12. Motion to Ratify the Nor-Gwyn Baseball waiver request for lights curfew on July 11 – 16, 2017 (Bux-Mont Tournament)

Mrs. Edelmayer said normally the Baseball Association gives us this information ahead of time, but unfortunately missed this one. The Commissioners agreed to extend the curfew until midnight for this tournament.

Hearing no questions or comments, upon motion by Mrs. Edelmayer, seconded by Mr. Duffy, the motion was unanimously ratified.

13. Motion to Approve Nor-Gwyn Baseball waiver request for lights curfew on August 7 – 14 and August 16 (Perky League)

Mrs. Edelmayer said this is another waiver for the lights curfew. Mr. Perrone added that residents in the neighborhood are notified of the curfew extension.

Hearing no questions or comments, upon motion by Mrs. Edelmayer, seconded by Mr. Sands, the motion was unanimously approved.

14. Motion to Approve the CFA Multimodal Grant Application – Sidewalks to extend the previously installed sidewalks that were part of the West Point Streetscape Project.

Mrs. Edelmayer explained that this is to extend the previously installed sidewalks in West Point Village to go over the railroad tracks.

Hearing no questions or comments, upon motion by Mrs. Edelmayer, seconded by Mr. Santi, the motion was unanimously approved.

15. Motion to Approve the 2017 Carnival Parking Agreement with Merck: Carnival to be held September 7, 8, 9, 10, 2017

Mrs. Edelmayer noted that Merck allows us to use their parking lot during our Carnival and we provide them with a certificate of insurance.

Hearing no questions or comments, upon motion by Mrs. Edelmayer, seconded by Mr. Duffy, the motion was unanimously approved.

16. Motion to Authorize the Advertisement for a PT Laborer for the Public Works Department

Mrs. Edelmayer said several years ago, we had someone in this position, but he passed away and now we are looking to fill that position again.

Hearing no questions or comments, upon motion by Mrs. Edelmayer, seconded by Mr. Sands, the motion was unanimously approved.

17. Motion to Approve Resolution 07-2017 - Permission to dispose of property less than \$1000.00

Mrs. Edelmayer stated that this Resolution allows the staff to dispose of property (equipment) less than \$1000.00 after appraisal. Mr. Onorato noted that this is per the First-Class Township Code

Hearing no questions or comments, upon motion by Mrs. Edelmayer, seconded by Mr. Duffy, the motion was unanimously approved.

18. Motion to Approve the Appointment of Meredith Ziemba to the Parks & Recreation Advisory Board (attendance TBD)

Mrs. Edelmayer noted that we had two (2) vacancies on the Parks & Rec Board. We reviewed resumes, held interviews and selected two (2) people to join the Parks & Rec Board. Meredith Ziemba is the daughter of former Commissioner Gene Ziemba. She was born and raised in Upper Gwynedd and currently lives in the Township and is very interested in getting active with the Parks and Rec Board.

Hearing no questions or comments, upon motion by Mrs. Edelmayer, seconded by Mr. Sands, the motion was unanimously approved.

19. Motion to Approve the Appointment of Matt Duardo to the Parks & Recreation Advisory Board (in attendance)

Mrs. Edelmayer said Matt Duardo was born and raised in Upper Gwynedd and currently resides in the Township and is enthusiastic about getting on the Board. He has been active in many community activities. He has two young boys.

Hearing no questions or comments, upon motion by Mrs. Edelmayer, seconded by Mr. Duffy, the motion was unanimously approved.

JAMES A. SANTI
Zoning/Planning

20. Consideration and possible decision on the Provco Land Development plans for 708 Sumneytown Pike and 1610 West Point Pike

Mr. Santi introduced the consideration and possible decision on the Provco Land Development Plan. He asked for a short recess to set up for the presentations.

Numerous presentations were made by Provco, Merck and the Township.
The following is an overview. **See the attached report from the Court Reporter for the full report.**

Presentation by Julie Von Sprecklesen of Eastburn and Gray Law Firm
She stated, I am here tonight on behalf of Provco Pinegood and who is the equitable owner of the two above properties. A Court reporter is present. She distributed a handout called The Development Team and went through each page of the hand out. **(See Attached)**

She said we are requesting preliminary land development application/plan approval and the granting of three (3) Waivers.

- Grading, excavations and fills ordinance section 109-15.A to allow top or bottom edge of slopes to be within 5' of a property line to permit sidewalk installation
- Stormwater Management Ordinance section 162-12.B(1) to allow storm sewer pipe size of 15" rather than the required 18": and
- Subdivision and Land Development Ordinance section 168-21.I(i)(c) to allow bollards around perimeter of parking lots adjacent to the buildings rather than 8" curbing.

The hand out included aerial photographs of existing conditions and showed the properties are outlined in blue and yellow. The Sumney Tavern is a non-conforming property that abuts Sumneytown Pike. The Country Bride has a full movement access. The Sunoco station has full movement access on West Point and Sumneytown Pike. Across the street is the Giant retail sites now owned by Hartford Properties and is to be a Royal Farms.

Ms. Von Sprecklesen gave an overview of the November 22, 2016 ZHB decision. After the decision, a proposed development plan was submitted with a right in right out access on Sumneytown and a full access on West Point Pike. She said we attended 5 planning commission meetings and gave an overview of all five meetings, after which a new proposed plan was submitted and showed a slide reflecting those changes.

Mr. Santi said this slide does not show the existing conditions – no turn lanes or new bridge.

Ms. Von Sprecklesen turned it over to Joe Baran from Bohler Engineering to address comments made by T&M Associates. **See attached Bohler Engineering Handout. Note, the date on the handout is July 18, 2017, but it was not distributed to or seen by the Township until July 24, 2017.**

Mr. Baran went over the hand out addressing each of the comments made by T&M (Township Engineer).

Matthew Hammond from Traffic Planning Design. He is the traffic engineer for the applicant. **See attached handout from Traffic Planning and Design, Inc. Note, the date on the handout is July 18, 2017, but it was not distributed to or seen by the Township until July 24, 2017.**

Mr. Hammond also went over the hand out addressing each of the comments made by Andy Heinrich (Township Traffic Engineer).

David Brooman of High Swartz. He is the Attorney for Merck.
See attached Merck packet of handouts that were hand delivered to the Township.

Mr. Brooman introduced Eileen Collins from Burns Engineering. Ms. Collins gave a presentation on traffic impact at the intersection of Sumneytown Pike and West Point Pike and an overview of the study she completed on comparison traffic from three area Wawa's with gas that are comparable in size and similar in location.

Steve Mongiardo, Merck's Executive Director for Global Facilities Management read a statement about Merck's concern for traffic and asked the Commissioners to deny the applicant's request for land development approval.

Ms. Von Sprecklesen refuted Mr. Mangiardo's comments by saying Merck is the single biggest contributor to the traffic issues. They did not oppose the Royal Farms but they oppose this Wawa because they want to acquire this property and have made several attempts to do so.

Mr. Kroberger added, whatever we decide tonight will be based on our land development ordinance. That's the only thing we can base it on.

Andy Heinrich, Township Traffic Engineer – **See attached Traffic Engineering Review Letter.**

Mr. Heinrich said he doesn't think there is a way to exit the Wawa onto Sumneytown Pike that is safe. There is still no resolution on how to accommodate PM peak traffic exiting right on West Point Pike and said properties will be affected and U-turns are an issue. We are not talking about convenience, this is about safety. He added if you can't provide safe access, then you have to eliminate movements. Mr. Heinrich was asked by Mr. Santi if he and Mr. Hammond would ever see a possibility that both of the traffic reports will ever be in agreement. Mr. Heinrich replied, for this site, probably not.

Resident Peter Haby of 722 Park Rd. says he sees no convenience in Wawa being built. He asked the Board not to approve the plan.

Rick Abbott, co-owner of the Sumney Tavern read a statement.

Julie Von Sprecklesen made closing comments. She said the applicant has met all criteria and there is no legal basis for denial of preliminary land development plan. We ask that you approve the preliminary plan tonight and grant the requested 3 waivers.

Mr. Kroberger said he would like to make a motion.

"Based upon the unresolved issues in the two sets of plans filed by Provco Pinegood Sumneytown LLC and the review letters, comments, reports, transcripts and the testimony before our Planning Commission and this Board itself, as well as reports, exhibits and testimony received from the consultants from Merck and Co. and the recommendation for denial received from our Planning Commission, as well as the three (3) and perhaps four (4) extensions of time offered by the applicant and accepted by this Board, I hereby make a motion to deny the land development plans most recently filed by Bohler Engineering on behalf of Provco Pinegood Sumneytown LLC dated January 13, 2017 and last revised June 14, 2017 and to direct the Township Manager and Assistant Manager to work with the Special Conflicts Solicitor to formally prepare the decision of the Board and communicate it to the applicant within fifteen (15) days along with the specifications of the defects found in the plans and the requirements which have not been met and in each case, and in such case, cited to the statute or ordinance relied upon, all as required by subsection 508(1) and 508(2) of the Pennsylvania Municipal Planning Code. That is my motion."

This motion was seconded by Mr. Santi, and the motion to deny the applicants land development plans was approved. Mrs. Edelmayer abstained from the vote.

Ms. Von Sprecklesen said she wanted it noted for the record that the motion to deny had been pre-prepared.

Mr. Kroberger replied by showing two pre-written motions, one approving and one denying the project.

Mr. Sands then made motion for a short recess which was seconded by Mr. Duffy.

After the recess, Mr. Kroberger reconvened the public meeting.

21. Motion to Approve Merck & Co. waiver request from Chapter 113-1 & 124-5 for afterhours crane work on B34 and B28 for roof replacement projects. Consecutive Sundays in August and September 2017.

Mr. Santi said the start time for Sunday work is at 8:00 am.

Hearing no questions or comments, upon motion by Mr. Santi, seconded by Mr. Sands, the motion was unanimously approved.

22. Motion to Approve Merck & Co. waiver request from Chapter 113-1 & 124-5 for afterhours crane work on B78/78A for Coping Stone projects. Consecutive Sundays in August 2017.

Mr. Santi said this is a three (3) story building in the southern perimeter of the property.

Hearing no questions or comments, upon motion by Mr. Santi, seconded by Mrs. Edelmayer, the motion was unanimously approved.

23. Motion to Approve Merck & Co. waiver request from Chapter 113-1 & 124-5 for afterhours crane work on B38 - PnP Renovation Project. August 20, 27, and September 3, 2017

Mr. Santi stated this is a two (2) story building located in the center of the site. He noted the crane may be visible.

Hearing no questions or comments, upon motion by Mr. Santi, seconded by Mr. Duffy, the motion was unanimously approved.

24. Motion to Approve the Deed of Dedication for Sanitary Sewer Lines for Gwynedd Chase (a.k.a. Dion Tract):

Mr. Santi explained that the sanitary sewer lines were inspected by EEMA in 2014 and the inspection was performed in accordance with Township specifications.

Hearing no questions or comments, upon motion by Mr. Santi, seconded by Mr. Duffy, the motion was unanimously approved.

25. Motion to Approve the Release of Performance Bond and enter into a Maintenance Agreement for Gwynedd Chase (a.k.a. Dion Tract):

Mr. Santi said Gwynedd Chase is going from a performance bond to a maintenance agreement. This development is on Morris Rd.

Hearing no questions or comments, upon motion by Mr. Santi, seconded by Mr. Duffy, the motion was unanimously approved.

26. Motion to Approve the Stormwater Best Management Practices Operations & Maintenance Agreement: Consistent with current PADEP MS-4 regulations.

Mr. Perrone noted that this is the Anglesey development near the intersection of Swedesford Rd. and 202.

Hearing no questions or comments, upon motion by Mr. Santi, seconded by Mr. Sands, the motion was unanimously approved.

STEVEN C. SANDS

Public Safety

27. Motion to Approve the 5th Annual Ataxia Charity Bike Ride on Sunday, October 15, 2017 at 8:00 am

Mr. Sands said we will provide traffic control for this race. They expect to have 300 – 350 cyclists participating during the race. The Police Department has reviewed the details and is recommending approval of this race.

Hearing no questions or comments, upon motion by Mr. Sands, seconded by Mrs. Edelmayer, the motion was unanimously approved.

28. Motion to Approve the 2017 Wissahickon Watershed 5 Mile Race on Saturday, November 4, 2017 at 9:00 am

Mr. Sands noted the goal is to raise money and awareness for open space preservation. They expect to have approximately 300 participants. This was reviewed and recommended for approval by the Police Department.

Hearing no questions or comments, upon motion by Mr. Sands, seconded by Mr. Santi, the motion was unanimously approved.

THOMAS A. DUFFY

Wastewater Treatment

29. Motion to approve the Tapping & Connection Fee Agreement between Foulkeways and UGT

Mr. Duffy said Foulkeways is proposing thirty (30) additional beds and will need purchase ten (10) more EDU's plus all the sewer connection fees.

Hearing no questions or comments, upon motion by Mr. Duffy, seconded by Mr. Sands, the motion was unanimously approved.

30. Motion to approve Change order # 1 from Wexcon, Inc. decreasing the cost of the 2017 Transition Couplings Project by \$5000.00.

Mr. Duffy stated this is for sanitary sewer improvements on Swedesford Rd. This is a decrease in the total project cost because we did not need the \$5000.00 contingency.

Hearing no questions or comments, upon motion by Mr. Duffy, seconded by Mrs. Edelmayer, the motion was unanimously approved.

31. Motion to approve Payment #1 to Wexcon, Inc. for the 2017 Transition Couplings Project in the amount of \$22,400.00

Mr. Duffy noted that this is the full payment to Wexcon less \$1000.00 in retainage.

Hearing no questions or comments, upon motion by Mr. Duffy, seconded by Mr. Santi, the motion was unanimously approved.

OTHER BUSINESS

32. Approval of the July 2017 bills.

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

Mr. Kroberger said the next item are the Sewer Bills and asked for questions or comments. Hearing none, upon motion by Mr. Duffy, seconded by Mr. Sands, 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 which include the fire tax, the Upper Gwynedd Collection System and Uniformed Police Pension Fund. Hearing no questions or comments, upon motion by Mr. Duffy, seconded by Mrs. Edelmayer, the Board unanimously approved these invoices as well.

Mr. Kroberger advised that there were several invoices that had been prepaid due to timing. Hearing no questions or comments, upon motion by Mrs. Edelmayer, seconded by Mr. Sands the Board unanimously approved the pre-paid invoices.

33. Call for Adjournment.

There being no further business, upon motion by Mr. Santi, seconded by Mr. Duffy, the meeting was adjourned to Executive Session for legal matters at 10:40 pm.

Respectfully Submitted,

Leonard T.
Perrone Secretary

/djl

Approved August 28, 2017