

PUBLIC MEETING MINUTES

September 25, 2017

KENNETH E. KROBERGER, PRESIDENT
Finance/Personnel/Administration

1. Call to order.

The September 25, 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
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 suspended the Public Meeting and opened the first of two Public Hearings.

2. Public Hearing

The purpose of this hearing is to hear comment pursuant to the amendment of section 195-26.1 and 195-22 of the Upper Gwynedd code to permit the growing, processing and dispensing of medical marijuana as provided by the Medical Marijuana Act.

Mr. Kroberger stated the purpose of the hearing and entered the four exhibits into evidence. He then turned it over to Dave Onorato, our Township Solicitor for further explanation.

Brief explanation of Ordinance 2017-007 by Dave Onorato, Township Solicitor

In 2016, PA Legislature approved and adopted the Medical Marijuana Act which allows for the growing, processing and dispensing of medical marijuana. Because those uses are not recognized in our zoning code, it is our recommendation that we define them with designated locations should one of the uses be approved by the state. Under the Medical Marijuana Act (MMA), the state has licensing authority for the uses. If we do not amend the zoning code, then a potential grower/dispensary could apply anywhere in the Township. This Ordinance states that the growing/processing of medical marijuana will be permitted in the industrial zoning district and the dispensing will be permitted in the commercial zoning district. Both uses will be subject to the strict regulations contained in the Medical Marijuana Act.

Mr. Perrone asked Mr. Onorato to describe the types of adjacent uses where this new use would not be permitted. Mr. Onorato said with respect to dispensing, under the MMA medical marijuana cannot be dispensed within 1000 ft. of a school (public, private or parochial) or daycare center. He added there is no similar limitations for growing.

Exhibits:

T1 Proof of Publication for Legal Advertisement published on September 5 and 13, 2017

T2: Ordinance 2017-007

- T3: UGT Planning Commission Review Letter (recommendation of approval)
- T4: Montgomery County Planning Commission Review Letter (recommendation of approval)

3. Request for public comment

Mr. Kroberger asked if anyone in the audience had any comments or questions.

Joseph Mack, Newbury Court, said with regard to growing, can you grow this anywhere? Mr. Perrone replied, no. Mr. Onorato added that you have to have a license (which is granted by the state) and it has to be grown indoors. He reviewed some of the state requirements in order to obtain a license. Mr. Mack added, if I had three acres, then I could grow it on my property? Mr. Onorato said no, it has to be indoors, but you must obtain a license from the state. Mr. Kroberger noted that you must also be in the industrial zoning district in order to grow medical marijuana.

Dennis Miranda, Sumneytown Pike, Upper Gwynedd, stated, just to clear the air on the issue, is there an opportunity for the Township to create a revenue stream by having a special tax on any sales generated within this jurisdiction? Mr. Kroberger and Mr. Onorato replied no.

4. Motion to close the Public Hearing and open the second Public Hearing

Mr. Kroberger asked if anyone else had any other questions. Hearing none, he asked if anyone would like to make a statement in support of this change. Hearing none, he asked if anyone would like to make a statement opposing this change. Hearing none, Mr. Duffy made motion to close the Public Hearing, seconded by Mr. Sands. The motion to close the Public Hearing and open the second Public Hearing was unanimously approved.

Mr. Kroberger announced that Mr. Santi is out of town and Mrs. Edelmayer is under the weather which is why they are not present at this meeting.

5. Public Hearing

The purpose of this hearing is to hear comment pursuant to the amendment of various sections of Chapter 195 of the Upper Gwynedd Township code providing that section 195-3.B shall repeal and adopt a new definition of family, repeal and adopt a new definition of dwelling unit, and shall repeal section 195-55.J. A family use by special exception in its entirety.

Mr. Kroberger stated the above purpose of the hearing and said this is a result of changes in the state law. It changes what can be considered as a family unit. He then entered the four exhibits into evidence, and turned it over to Dave Onorato, our Township Solicitor for further explanation.

Brief explanation of Ordinance 2017-008 by Dave Onorato, Township Solicitor

Mr. Onorato said, with respect to zoning in the Township that deals with family uses, case law has now determined that you cannot limit the definition of family to those that are related by blood, marriage or adoption. Case law said, a family is an economic unit that behaves like a family, so it can be unrelated people. We recommended to the Board that it recognize the change and adopt this amendment so that our zoning code is consistent with what the constitutional scholars say we should have in our zoning code. A family will be defined as any number of persons living or cooking together as a single non-profit, non-transient housekeeping unit.

Exhibits:

- T1 Proof of Publication for Legal Advertisement published on September 5 and 13, 2017
- T2: Ordinance 2017-008
- T3: UGT Planning Commission Review Letter (recommendation of approval)
- T4: Montgomery County Planning Commission Review Letter (recommendation of approval)

6. Request for public comment

Mr. Kroberger asked if anyone in the audience had any questions. There were none.

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

Mr. Kroberger asked if anyone would like to make a comment in support of this change. Hearing none, he asked if anyone would like to make a comment opposing this change. Hearing none, Mr. Duffy made motion to close the Public Hearing, seconded by Mr. Sands. The motion to close the Public Hearing was approved.

Mr. Kroberger then resumed the Public Meeting.

8. Motion to approve the Minutes of the Workshop Meeting held August 15, 2017

Mr. Kroberger noted that the Workshop Meeting Minutes were received with the Agenda packet. Hearing no questions or comments, upon motion of Mr. Duffy, seconded by Mr. Sands, the Minutes of the August 15, 2017 Workshop Meeting were approved as presented.

9. Motion to approve the Minutes of the Public Meeting held August 28, 2017

Mr. Kroberger noted that the Public Meeting Minutes were received with the Agenda packet. Hearing no questions or comments, upon motion of Mr. Sands seconded by Mr. Duffy, the Minutes of the August 28, 2017 Public Meeting were approved as presented.

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

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

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

Glen Johnson, Newbury Court, asked about getting an update on the Nor-Gwyn Baseball lights. He said he was here in 2014 because these bright lights faced his property. A study was done by Nor-Gwyn Baseball and it was determined that the lighting was not an issue. Mr. Johnson said he disagreed with that finding. He is asking that a member of the Board sit on his deck when the lights are on at 9:30 at night and assess the situation. He added that there is an agreement with the developer of Newbury Phase II to replace those lights. Mr. Johnson would like that completed prior to the first house being built. Mr. Onorato said he didn't know if we can promise that, but would look into it. Mr. Perrone said the lights are to be replaced with new technology. He added that the new lights will solve the issue and will be more cost efficient for Nor-Gwyn to light the fields. Mr. Johnson said it has been three years since he first complained about the lights. He went on to say that a couple of things have happened; they replaced eight bulbs which makes it brighter and they now have three weeks instead of one

week of lights being on until 12:00 at night. Mr. Perrone said it is being addressed. Mr. Johnson continued and said, back in the planning meeting in 2015, he complained about shrubbery that needed to be replaced and PRDC refused to replace them. He said Perlstein said he would give the residents \$40,000 to resolve the landscaping but the money has yet to be seen. He said that Upper Gwynedd Parks and Rec is entitled to \$25,000 according to the minutes of March 5, 2015 Planning Meeting. Mr. Johnson said the punch list for Newbury I has not been completed. He added that he would be very disappointed if the Township moved forward with Newbury Phase II without the Phase I punch list completed.

Dennis Miranda, 721 Sumneytown Pike, said, three years ago, as the Director of the Wissahickon Valley Watershed Association in negotiations with Merck to donate nearly ten acres of land on Dickerson Rd. which is now Dodsworth Run Preserve, a space for bird watching and nature. He said the Martin Tract is an example of land that could have been used in that same manner. He said the Martin Tract is part of the Townships' master plan and open space plan. He went on to say that he sees a lack of effort and leadership in not making an effort to procure this piece of land. Mr. Miranda added that he would like to see new negotiations started to acquire that tract of land. Mr. Kroberger said, through the years we have done quite a bit relative to open space and I think we've done an excellent job acquiring over 800 acres in this Township. Mr. Kroberger added that the Martin Tract was never for sale, so it was never available to us to look at a price to purchase it. Mr. Onorato added, as far as we know it is under agreement. Mr. Miranda said it is a purchase contract subject to local approval to which Mr. Onorato replied, we are not going to discuss that now. Mr. Miranda added that he has done deals at the eleventh hour and feels this is a lost opportunity.

Liz McNaney, Airy Street, West Point, said that Mr. Duffy said a few months ago that there was a price that the Township was offered for the Martin Tract. Mr. Duffy responded and said we were never offered a price for it. He added that when he sat on the Open Space Committee it was one of the properties that was looked at but it wasn't for sale at that point in time. Ms. McNaney added that she will support Mr. Johnson regarding the Nor-Gwyn Baseball lights. She also thanked Willard Troxel for handling the issue with the micro surfacing of Airy St. Mr. Kroberger added that we received a written apology from the subcontractor handling the micro surfacing because they did not follow Upper Gwynedd Township procedure for notifying residents of work on their street. Mr. Perrone explained the process of micro surfacing and said it is not an overlay. It is a treatment that when first applied will appear bumpy and not aesthetically pleasing. It will flatten out in a few months and will be much smoother and you will not see the variety of textures that you see now. The fine grit on the road will be swept up soon.

Joe Mack, 309 Newbury Court, said a while back we had an onsite meeting to look at the outstanding issues with Newbury Phase I. He said he wants indemnification of the post & rail fence that was put on the Farm Lane property. He distributed documents to the Board regarding his comments on the fence, emails and pictures. He included a sample of an indemnity agreement and said that is what he is looking for to protect the residents of Newbury should someone get injured. Mr. Kroberger said we will have our Solicitor review the documents.

12. Moment of Silence for the death of David Smith, a Franconia Township Public Works Employee and an expression of well wishes to Jeffrey Moyer and family

Mr. Kroberger noted there was a fatal vehicular accident in Franconia that involved two Public Works employees that were working on a road. David Smith was fatally injured and Jeffrey Moyer was critically injured. Mr. Moyer remains in the hospital, but is responsive. Mr. Kroberger offered our prayers to their families and the Township and led a moment of silence.

13. Motion to authorize the Township Manager to prepare a letter on behalf of the Board of Commissioners urging The Pennsylvania State Legislator, both The Senate and The House, to vote no with regards to the current Pennsylvania budgetary revenue package. The current proposed package will cause a significant reduction in revenues received by municipalities from The Commonwealth.

Mr. Kroberger said some of the things that will be affected by this budget package are; funds to the volunteer fire relief fund, foreign casualty fund, the recycling grants funds, the gasoline tax funds, loss of funds from the multi-modal grants, and other revenue losses.

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

14. Recognition of John Maguire for 30 years of service to the Township (In attendance)

Mr. Kroberger said monthly we have the privilege of recognizing employees who have met milestones in employment with the Township. He then invited John Maguire, a 30-year employee in our Public Works Department to come up and shake hands with the Commissioners as they offered their congratulations. The Commissioners took pictures with the family.

15. Motion to approve the 2018 MMO, as presented by Dave Brill

Mr. Brill (Finance Director) explained that the MMO (Minimum Municipal Obligation) is the required funding of the pension plan that the Township sets aside for the upcoming budget. For the Police Pension Plan, that amount is \$715,566 and for the Non-Uniform Pension Plan, \$131,918, for a total of \$847,484. He went on to say that we expect to receive \$357,884 in State Aid which will leave a net cost to the Township's General Fund of approximately \$489,600. Mr. Kroberger said this information will be part of the 2018 budget that will be approved in December.

Mr. Perrone noted that Mr. Brill mentioned State Aid in his report and said that this is one of the funds that is in jeopardy of getting cut in the proposed state budget.

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

Joe Mack asked if the Township was required to recompense the unions if their pension funds are mismanaged and they lost money. Mr. Brill replied no, we have a different structure in that we hire an independent advisor.

16. Motion to approve Resolution No. 10-2017: Disposition of Specific Township Records

Mr. Kroberger said this resolution deals with our responsibilities and obligations on how we dispose of Township records. This resolution is in line with what the law requires us to do with regards to disposal of records.

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

M. CLARE EDELMAYER, VICE PRESIDENT

Public Works/Parks/Recreation

17. Statement by Mrs. Edelmayer: Carnival Recognitions

Mr. Kroberger said this year's Carnival generated the most money in ticket sales. Mr. Kroberger thanked the numerous people who helped with carnival and also thanked our sponsors.

18. Motion to authorize the preparation and advertisement for the Snow Plow Equipment Rental Bid

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

19. Motion to authorize the preparation and advertisement for the 2018 Roadway Bid with Equipment, Materials and Labor

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

JAMES A. SANTI
Zoning/Planning

20. Motion to Approve Ordinance No. 2017-007 - Permitting the growing, processing and dispensing of medical marijuana

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

21. Motion to Approve Ordinance No. 2017-008 – Adopting a new definition of family, and a new definition of dwelling unit

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

22. Motion to Approve Merck & Co. waiver request for afterhours crane work on 62F for roof replacement projects on consecutive Sundays in October & November 2017 (if needed).

They will be working on Saturdays in October and November, and this is for Sunday work if needed.

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

23. Motion to Approve the Related Party's Agreement between Mansour Afshar & UGT: 345 Britt Rd.

Mr. Kroberger said this is for an in-law suite that has separate kitchen facilities. In the event that it ceases to be an in-law suite, the kitchen facilities must be removed per this agreement. Mr. Onorato added that the agreement is recorded so that future owners would know that it is not an apartment that could be rented.

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

24. Motion to Approve Resolution No. 12-2017, accepting dedication of Wagner Court

Mr. Kroberger said this is accepting dedication of the roads and public improvements for Wagner Court, Rt. 202 and Swedesford Rd.

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

25. Motion to Approve Resolution No. 13-2017, accepting dedication of Providence Lane

Mr. Kroberger said this is accepting dedication of the roads and public improvements for Providence Lane which is off of Allentown Rd.

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

26. Motion to Approve the Memorandum between BCHW Holdings and UGT and UGT Zoning Hearing Board

Mr. Kroberger said Cardinal Hollow Wines had considered adding condominiums on three separate properties and they decided not to do that, so this memorandum dissolves that condition.

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

STEVEN C. SANDS

Public Safety

Mr. Sands thanked Chief Duffy and his staff for their help during the Carnival. Their presence was noted and he said it was a positive influence for the kids in the Community.

27. Motion to Approve Resolution No. 09-2017: Designating October 8 – 14, 2017 as Fire Prevention Week.

Mr. Sands read much of the resolution. He encouraged everyone to give praise and thanks to the firefighters and emergency workers.

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

Mr. Sands added that our Fire Company will be visiting area elementary schools and day care centers to teach children the importance of practicing fire drills at home.

28. Motion to Approve Resolution No. 11-2017: Policies and Procedures regarding Charity Walks/Runs in the Township

Mr. Sands said the Township has always supported charitable organizations in their efforts to raise money and we get an abundance of requests for walks and runs on Township property. Each request is reviewed by the Police Department before it is sent to this Board for approval. This resolution sets the policies and procedures as well a schedule as to when information is to be submitted for approval.

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

THOMAS A. DUFFY
Wastewater Treatment

29. Motion to Authorize the preparation and advertisement for the DeIPAC 1525 Bid

Mr. Duffy said this is for a chemical used at the Wastewater Treatment Plant.

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

30. Motion to Authorize the preparation and advertisement for the Dense Soda Ash Bid

Mr. Duffy said this is also a chemical used at the Wastewater Treatment Plant.

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

31. Motion to Authorize the preparation and advertisement for the Magnetite Bid

Mr. Perrone added that this was not on the Workshop Agenda and this is associated with our BioMag system.

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

OTHER BUSINESS

32. Approval of the September 2017 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. Sands, the General Fund bills were approved.

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 Upper Gwynedd Collection System, Uniformed Police Pension Fund and VEBA. Hearing no questions or comments, upon motion by Mr. Sands, seconded by Mr. Duffy, 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 Mr. Duffy, seconded by Mr. Sands, the Board unanimously approved the pre-paid invoices.

33. Call for Adjournment.

Mr. Perrone recognized Rob Nagele who worked every day of the Carnival and thanked him for all his help.

There being no further business, upon motion by Mr. Duffy, seconded by Mr. Sands, the meeting was adjourned at 8:35 pm.

Respectfully Submitted

Leonard T. Perrone
Secretary

/djl

Approved October 23, 2017