

MINUTES

SWATARA TOWNSHIP

REGULAR MEETING II

FEBRUARY 10, 2021

BOARD OF COMMISSIONERS

1. **Call to Order:** President Connolly called the Regular Meeting II of the Swatara Township Board of Commissioners to order at 7:07 p.m. Wednesday, February 10, 2021 virtually, via Zoom.
2. **Pledge of Allegiance:** President Connolly led the audience in the Pledge of Allegiance.
3. **Moment of Silence**
4. **Roll Call:** Commissioners Zubeck, Varner, Ellis, Vice President Boudier and President Connolly were present. Also present: Township Manager Jim Fosselman, Assistant Manager Kim Kaufman, Solicitor Scott Wyland, Director of Public Safety and Sergeant-at-Arms Darrell Reider, Fire Chief Michael Ibberson, Director of Planning and Zoning Robert Ihlein, Director of Public Works Todd Webb, Stormwater Engineer William Gralski and Assistant Secretary Karen Alleman.
5. **Announce Executive Session:** An Executive Session was held to discuss personnel matters and litigation.
6. **Presentation: Preliminary Review of Swatara Township Economic Impact Study:** Mr. Jesse Suder and Mr. Jim Rogers of Dawood Engineering presented the study, it will be available for view on the Township's website. President Connolly asked for Commissioner's questions or comments regarding the study. Commissioner Ellis asked for a time frame on the study. Mr. Suder said it could start immediately with gathering economic data, then getting census information in March and about three to four months after that, having initial facts and findings. A final report by Dawood should be available to the Board by September or October. President Connolly said an economic impact study committee would be formed with Commissioner recommendations to gather data. Each Commissioner should have two participants in mind to nominate to the committee for the March meeting.
7. **Visitors Requests and Comments:** Secretary Alleman read into the record two emails received prior to this evening's meeting.
 - A. **Mary Kepp, 1350 Kelley Road** (via email) made inquiries regarding the update to the Township's website and the formation of a senior committee. Commissioner Zubeck gave a timeline of the website update. The website update is on track according to the contract. Commissioner Ellis asked if the new website would be up by April. Commissioner Zubeck wants to make sure the update is done correctly and does not want to rush the contractor. She would gladly speak with Ms. Kepp, or any other resident to hear any ideas they may have.

Commissioner Varner addressed the formation of a senior committee. He has been in contact with Detective Seiler since the beginning of last year to contact senior citizens residing in senior housing in the Township; however, COVID made that almost impossible. He planned to have an exhibit at a senior expo, but that was canceled due to COVID also. He is going to place a page on the new website as a resource for seniors. He would like to hear from residents with ideas. He would gladly meet with Ms. Kepp to hear any ideas she may have.
 - B. **Shamica McIntyre, 7918 Humboldt Drive** (via email): Thanked the highway department for a great job with snow removal and looks forward to outdoor community events with the police department.

MINUTES

SWATARA TOWNSHIP

REGULAR MEETING II

FEBRUARY 10, 2021

BOARD OF COMMISSIONERS

- C. Lisa Neiter, 6140 Hocker Drive: Would like to serve on the economic impact study committee. Asked what the township was going to do regarding the recent warehouse decision of Mushroom Hill LLC by Judge Cherry.
Solicitor Wyland said if the Township were to appeal the decision, it would have to do so by the end of February. So far, the township has not directed the solicitor to file an appeal. Although there were a number of individuals who became parties for purposes of the conditional use hearing, no individual parties participated in the appeal before Judge Cherry. Therefore, Solicitor Wyland does not believe any individuals would be in a position to file a further appeal. This was a very narrow legal issue about whether there was right for this use to occur on the lot. There is still the land development process that happens next, assuming that the development will go forward. Also, one of the things that the Judge said was, those who participated at the hearing in front of the township were obviously convincing enough that the Commissioners unanimously voted to deny the conditional use application. The form of the presentation by the objecting parties was not in a format to be evidentially recognizable, there was not any expert witness or those sorts of objective facts. He feels Dauphin County President Judge Cherry had a good strong look at it and unfortunately disagreed with the township that found the evidence that was presented at the hearings lacking legally in a way that would allow the conditional use to have been denied.
- D. Deb Knowles, 6080 Hocker Drive: Asked about the environmental impact study that was done, she feels another one should be done, she feels it was not valid. It did not address animals, trees, or mud slides that are going to happen from water run-off. Commissioner Ellis said this decision was made by Judge Cherry, it was not the decision of the Board of Commissioners. Ms. Knowles asked if the Board would choose to appeal the Judge's decision. Commissioner Ellis said at this time the Board chooses not to appeal.
- E. Michael Tuckey, 5875 Gensemer Lane: He is confused by the process. He wanted to participate in the process with Judge Cherry and could not. He asked if all Commissioners were in agreement with the process not to appeal.
Solicitor Wyland said he is not being directed to file an appeal at this point. Mr. Tuckey said he is asking, is every Commissioner telling them at this point they do not want to proceed further with this appeal. Solicitor Wyland said the only way the township, as a party, acts is through a motion by the Commissioners. There has not been a motion placed on the agenda so he does not expect any direction by the Commissioners to make an appeal so he will not unless directed to.
Mr. Tuckey would also like to be on the economic impact study committee.
- F. Tom Garlic, 6050 Hocker Drive: Would like to be considered for the economic impact study committee. He asked if Commissioners could let the public know how they felt regarding the appeal.
Solicitor Wyland said one of the commissioners would have to feel strongly enough about the appeal to place it on the agenda in the form of a motion, no one took that step. No Commissioner felt strongly enough about the chances of succeeding on appeal versus the

MINUTES

SWATARA TOWNSHIP

REGULAR MEETING II

FEBRUARY 10, 2021

BOARD OF COMMISSIONERS

amount of money that would need to be spent to pursue an appeal to advance that. It wasn't an affirmative decision to do one thing or another, it was an absence of a motion to take a further step in the judicial process.

Mr. Garlic asked about the entry to the facility now that trucks are not allowed on Chambers Hill Road. Solicitor Wyland said this was a conditional use hearing on the zoning question of whether that use is permitted and appropriate on that site. The Commissioners said no, Judge Cherry said yes. There is the further land development process that has to be undertaken for land development activities there. Many of those items are addressed in the land development phase and not in this zoning phase.

- G. Justin Bradnick, 3703 Rutherford Street: He noted the recent passing of a long-time police department employee, Christine Stoltz. He offered condolences to her family, friends, and the police department. President Connolly said she will be greatly missed and sends condolences to her family and friends.
- H. Wayne Scott, 391 North 50th Street: He is impressed with the snow removal process of the highway department. You can always tell you are in Swatara Township because of the great job with snow removal.
- I. Jeff Dougherty, 4787 Tipton Road: Is willing to serve on the economic impact study.
- J. Marlena Seguin, 6031 Hocker Drive: She appreciated the recent snow removal process. She wanted to understand correctly that the appeal, as it stands, there is not one commissioner who would appeal Judge Cherry's decision.

President Connolly said he believes the Board all disagrees with Judge Cherry's position and we took an opposing position and lost in court. He felt our legal council did the best it could. He said there were people asking to go to the hearing, at that point the township had submitted all the paperwork. That meant that those who appeared before the Board previously failed to be a party of that appeal. Being a party of the appeal was a process that would have been taken through the court system. To say Solicitor Wyland said no, he was talking about whether you could be a party to his process that the township was taking. The township was the only party to step forward to defend and prevent this project from moving forward, and the township was unsuccessful. Solicitor Wyland understood that it was the Court that told the residents no, there was no opportunity to go into the courtroom and say things.

- K. Terry Barber, 6010 Hocker Drive: Wanted to make sure Judge Cherry's decision means the developers appeal is okay and the township has to accept their application as submitted. Solicitor Wyland said that is correct and that is one of the dangers of opposing a conditional use. If you grant a conditional use, you can apply a whole bunch of conditions, if you deny the conditional use and the judge disagrees and reverses the decision then the conditional use is approved as it was submitted. Mr. Barber asked what the next step was. Solicitor Wyland said as it stands now, the application for conditional use has been granted. The developer's have that in hand now and they can do whatever they want to with it, including nothing. Presumably, the next step is a land development plan. Mr. Barber asked what the residents can do in the land development phase. Solicitor Wyland said once a land

MINUTES

REGULAR MEETING II

SWATARA TOWNSHIP

FEBRUARY 10, 2021

BOARD OF COMMISSIONERS

- development plan is submitted it is reviewed by township staff, people may speak for and against it and the commissioners make a decision based on the law of whether the land development plan may be granted. Solicitor Wyland suggested he look at agendas and stay in contact with Mr. Ihlein regarding the land development plan.
- L. Rose Brown, 5600 Plainview Road: Said there were 50 million people there in a room ready to talk. She is disappointed that all the Commissioners did not make a decision to appeal this. The fight is not over. She feels they need to appeal the decision.
8. **Motion to Approve Agenda**: A motion was made by Commissioner Ellis to approve the agenda, seconded by Vice President Boudier.
9. **Motion to Approve Items on Consent Agenda**: Vice President Boudier made a motion to approve the consent agenda items, seconded by Commissioner Varner.
- A. Monthly Departmental Reports
 - B. Committee Reports
 - C. Codes Report
 - D. Appointment of Business Privilege Tax Officer – Jennifer Reichwein
 - E. Appointment of Civilian Support Specialist for Police Department – Heather Schlehr-Richmond
 - F. Appointment of Stormwater Coordinator – Kevin Trafka
 - G. Conditional Authorization to Fill Custodian Position
 - H. Authorization to Advertise Position of Highway Department Truck Driver
 - I. Authorization to Advertise Police Receptionist Position
 - J. Approval of Fee Waiver for Demolition Permit – Rainbow Hills Swimming Pool Property
 - K. Sidewalk Easement Agreement for 6300 Derry Street
 - L. Approval of 2021 Compost Fee Schedule
 - M. Notice of Retirement – Mary Catherine Schatt
10. **Consideration of Minutes**: Regular Meeting of January 13, 2021: President Connolly made a motion to approve the minutes as corrected, seconded by Commissioner Ellis. Commissioner Ellis made a correction to Item 18C, Appointment to Boards and Commissions. Commissioner Zubeck made the motion to reappoint Charles Maletestinic, Twila Mannix and Troy Lehigh to the Recreation Advisory Board. Commissioner Ellis made the motion to appoint Ronald “Tone” Cook to the Recreation Advisory Board.
- Commissioner Zubeck wanted to clarify Item 8G, Appointment of Business Privilege Tax Officer, which was removed from the agenda. She wanted to make it clear that the item was removed from the agenda per the suggestion of the solicitor.
11. **Reports**: All reports are posted in the lobby of the municipal building.
- A. **Manager’s Report**: He was at a high school girls basketball game and an official, who is a resident of the township, noticed his shirt which says Swatara Township Manager, and wanted to tell him our highway department is the best in the state when it comes to clearing snow.
 - B. **Treasurer’s Report**: President Connolly made a motion to approve the January 2021 treasurer’s report, seconded by Commissioner Ellis. Motion carried unanimously.
 - C. **Solicitor’s Report**: Nothing at this time.

MINUTES

SWATARA TOWNSHIP

REGULAR MEETING II

FEBRUARY 10, 2021

BOARD OF COMMISSIONERS

- D. **Stormwater Report:** Mr. Gralski has submitted his report to the Board.
- E. **Swatara Rising Comp Plan:** Mr. Ihlein presented his report to the Board.
- a. **Premier Project Award for the 2019 Sidewalk Study Project:** The Tri-County Regional Planning Commission presented its ninth annual Dauphin County Premier Project Awards during a virtual ceremony. Swatara Township won the Small Project Award for the Regional Connections Planning Grant Sidewalk Study Project.
 - b. **Approval of Mission Statement for Building and Codes Department:** Commissioner Varner made a motion to approve the Mission Statement for the Building and Codes Department. Motion seconded by Commissioner Ellis. Motion carried unanimously. Commissioner Zubeck thanked staff for their hard work in achieving the Small Project award.
- F. **Fire Services Report:** Mr. Ibberson presented his report to the Board. COVID vaccines have been provided to all fire and police personnel who wanted one. The Township has applied for a health and wellness regional grant through FEMA with Lower Paxton, Susquehanna and Harrisburg City. The total applied for is \$344,100, our portion is for \$55,600 for exercise equipment. We are applying again for a FEMA regional grant for recruitment and retention through CAPCOG. He thanked the fire, police, and public works departments for their outstanding performance during snowstorms.
- G. **Director of Public Safety Report:** Director Reider began his report by letting everyone know that on January 31st, after a short illness, Swatara Township lost a dear friend, a twenty-four year employee of the police department, Christine Stoltz. Christine's last wishes were that people make donations in her memory to the Swatara K-9 Fund. To date we are approaching \$3,000 which has been donated in her name, she would be very proud of that. The Annual Police Department Report is finished and will be posted online. He thanked the fire, public works, and EMA departments for their outstanding work during the recent winter storm.
12. **Consideration of Resolution: Elimination of No Parking on 46th Street:** Commissioner Zubeck made a motion to remove the no parking area on the south side of 46th Street, seconded by Commissioner Ellis. Motion carried unanimously. Resolution R-2021-06
13. **Consideration of Resolution: Special Purpose Parking at 665 Highland Street:** Commissioner Ellis made a motion to establish a special purpose parking zone at 665 Highland Street, seconded by Commissioner Zubeck. Motion carried unanimously. Resolution R-2021-07
14. **Consideration of Resolution: Dauphin County Emergency Operations Plan:** Commissioner Zubeck made a motion to approve the Dauphin County Emergency Operations Plan, seconded by Commissioner Ellis. Motion carried unanimously. Resolution R-2021-08
15. **Subdivision/Land Development Plans:**
- A. **Release of Site Improvement Escrow for Members 1st FCU Bank Building Project:** Director Ihlein said this is for the Members 1st Federal Credit Union project on Eisenhower Boulevard which was completed last year. The final site plan has been inspected by the township engineer. The applicant and owner of the property are requesting release of the security bond. Vice President Boudier made a motion to approve the final reduction and full release

MINUTES

SWATARA TOWNSHIP

REGULAR MEETING II

FEBRUARY 10, 2021

BOARD OF COMMISSIONERS

of the Vizo Financial Letter of Credit No. 127 in the amount of \$255,614.43 that was being held for Members 1st Federal Credit Union for Land Development Plan #2017-11C in accordance with the executed security agreement. Commissioner Zubeck seconded the motion. Motion carried unanimously.

16. Visitors Requests and Comments:

- A. Michael Tuckey, 5875 Gensemer Lane: Wanted to make sure he understood the township was not willing to do anything else at this point. Asked when public meetings would resume. President Connolly said there are weekly safety meetings held, and as soon as the safety committee deems it is safe to return to in person meetings, we will go back to that. Solicitor Wyland said his firm represents about 30 municipalities and this municipality is the only one that has had consistent in person meetings. Every other municipality conducts their meetings virtually. This is not unusual, it is the norm. Mr. Tuckey said they have a large group gathering for the virtual meetings and they would like to be able to hand-off the phone from one person to another in the group. President Connolly said they would take that under advisement.
- B. Jeff Dougherty, 4787 Tipton Road: Asked if the township or someone else owns the former Lawnton Fire Company. President Connolly said the building is privately owned. He would like to see another piece of apparatus in the Lawnton area. President Connolly said the current response time is less than average in the entire country.
- C. Lisa Neiter, 6140 Hocker Drive: She has seen the presentation by Dawood and she hopes the Commissioners don't sell out the township to a warehouse development. She also announced the Chambers Hill Fire Company is starting fish fries this Friday from 4:30 to 7:30. It is drive-thru this year. She asked where the Board was regarding re-zoning. President Connolly said we will wait for the data to come in and possibly have an update in August. She said its not always about the money, or the studies.

17. Possible Stormwater Violations: None

18. Commissioners Requests and Comments

- A. Commissioner Varner: Nothing at this time.
- B. Commissioner Zubeck: Extended condolences to Christine Stoltz's family and the police department. Thanked fire, police, public safety, and public works for their work during the winter storm.
- C. Commissioner Ellis: Thanked everyone that participated in the Martin Luther King Jr. Day of Service clean-up along Derry Street. Thanked the public works department in keeping the roads safe. Congratulated Commissioner Varner on the birth of his son.
- D. Vice President Boudier: Asked Director Reider if the department is still having Coffee With A Cop. Director Reider said tomorrow is the first one that will be held in a while. Social distancing and masks are required. The event will take place tomorrow at The Promenade on Derry Street at 9:00 a.m.
- E. President Connolly: The economic impact study shows 9% of the County's population is in Swatara Township and 21% of the businesses. This goes hand in hand with warehouses and retail. We have low taxes and high services. A large concern of residents is keeping taxes

MINUTES

REGULAR MEETING II

SWATARA TOWNSHIP

FEBRUARY 10, 2021

BOARD OF COMMISSIONERS

low. If commercial growth is eliminated, taxes go up. He does not advocate taxes comparable to some neighboring municipalities. There are approximately thirty-one vacant properties in the township. Thirty-eight properties will be displaced with the Route 83 project. We currently do not have room for all of the displaced businesses. He said the Township did what it could do for the residents regarding the proposed warehouse project. Sometimes you get overruled, there may be other options. He understands the residents' concerns and appreciates their willingness to serve on the new committee. He congratulated Director Reider and the police officers who brought a successful ending to a recent child abduction. Sgt. Ashley Baluh demonstrated great heroism in retrieving an infant from a bad situation. He thanked all audience members for their participation this evening.

19. **Adjournment:** Vice President Boudier made a motion to adjourn the meeting at 9:37 p.m., seconded by Commissioner Ellis. Motion carried unanimously.



Karen Alleman, Assistant Secretary