

TOWNSHIP OF LOWER MAKEFIELD
PLANNING COMMISSION
MINUTES – JANUARY 10, 2022

The regular meeting of the Planning Commission of the Township of Lower Makefield was held in the Municipal Building on January 10, 2022. Ms. Kirk called the meeting to order at 7:30 p.m.

Those present:

Planning Commission: Ross Bruch, Chair
 Adrian Costello, Vice Chair
 Dawn Stern, Secretary
 Tony Bush, Member
 Tejinder Gill, Member

Others: James Majewski, Director Planning & Zoning
 Barbara Kirk, Township Solicitor
 Andrew Pockl, Township Engineer
 Daniel Grenier Supervisor Liaison

REORGANIZATION

Ms. Kirk called for nominations for Chair of the Planning Commission for 2022.

Mr. Bush moved, Mr. Costello seconded and it was unanimously carried to elect Ross Bruch as Chair of the Planning Commission for 2022.

The meeting was turned over to Mr. Bruch who called for nominations for Vice Chair of the Planning Commission for 2022.

Mr. Bush moved, Mr. Gill seconded and it was unanimously carried to elect Adrian Costello as Vice Chair of the Planning Commission for 2022.

Mr. Bruch called for nominations for Secretary of the Planning Commission for 2022.

Mr. Bush moved, Mr. Costello seconded and it was unanimously carried to elect Dawn Stern as Secretary of the Planning Commission for 2022.

APPROVAL OF MINUTES FROM THE 8/9/2021 MEETING

Mr. Costello moved, Ms. Stern seconded and it was unanimously carried to approve the Minutes of August 9, 2021 as written.

ACT 537 PLAN SPECIAL STUDY – SALE OF SEWER SYSTEM DISCUSSION AND MOTION

Ms. Kirk stated the Township has decided to sell the sanitary sewer system, and that will probably occur in the first quarter of 2022. She stated the Township is obligated to submit an Act 537 Plan to the Pennsylvania Department of Environmental Protection outlining the courses of action that the Township intends to take to make sure to mitigate any unnecessary flows into the sanitary sewer system as well as a Capital Improvement Plan for upgrading the system, repairing lines, manholes, etc. She stated that Act 537 Plan was submitted last year to DEP; and as a result of the Township intending to sell the system, the Township has to prepare an updated Special Study as to the Act 537 Plan. She stated this was presented to the Planning Commission for their review. Ms. Kirk stated this is similar to Studies that have been done in the past dealing with the sanitary sewer system which involved the Neshaminy Interceptor Yardley Borough, etc.

Ms. Kirk stated the Planning Commission needs to make a recommendation to the Board of Supervisors to either approve and adopt the Act 537 Plan Special Study to be submitted to DEP, not approve, or take no action.

Mr. Bruch asked Mr. Grenier if he had any comments to make. Mr. Grenier stated generally this document is a summary of actions taken over the last year or so. He noted Section 7 where there are statements made which he feels are debatable and which he feels should be revised in this document. He stated the statements indicate that the system is basically failing and the reason for the sale was the cost of the system. Mr. Grenier stated the cost of fixing the sewer system was not the primary reason for selling the system, and that should be left out of this document. Mr. Grenier stated there was a Seven-Year Plan a few years ago that resulted in a 37% rate increase to cover these items with no other issues highlighted by the Township sewer engineer or our Auditor from a financial perspective. He stated he feels that statement should be removed from the document. He stated he feels the reasons for the sale of the system vary depending on who you talk to, and he would recommend removing that particular statement.

Ms. Kirk stated while she understands Mr. Grenier's position, this was created by the Township Sewer engineer who has daily hands-on knowledge of what is going on. She stated to the extent that there is an issue with Paragraph 7.3, the Planning Commission could make a recommendation to the Board of Supervisors to approve the Act 537 Plan Special Study subject to revisions as may be requested by the Township's Board of Supervisors.

Mr. Bush asked if the Planning Commission were to vote to recommend to approve the Plan with the language in it, would we be supporting the position to sell the Sewer system adding that was something that was never before the Planning Commission. He added that he would not be comfortable doing that.

Mr. Bush stated he understands that the sale of the system is before the Pennsylvania Board of Public Utilities, and he asked if that is still an ongoing process or have they acted on it. Mr. Grenier stated it is an ongoing process. He stated he believes that the major hurdle allowing for the sale to move forward was met in September or October, and the Close is to take place in the next few months. Ms. Kirk stated they had the initial Hearings in September/ October as to whether this was something that the PUC would approve, and an opinion was rendered by the PUC. She stated they are now at the stage of supplementing and providing the PUC with specific information that will be necessary for the sale. Ms. Kirk stated Special Counsel was retained by the Township Board of Supervisors to handle the sale, but she is doing some background work including gathering the outline of property interests so that Easements where the sewer lines are can be conveyed to the buyer. She stated all of that information will have to be submitted to the PUC for review and approval.

Ms. Kirk stated she understands that an updated report needs to be submitted to DEP in anticipation of the sale occurring. She stated if the sale would not get finalized, a new Special Study would have to be submitted to DEP.

Mr. Grenier stated Act 537 Plans have come before the Planning Commission previously, and Mr. Majewski agreed.

Mr. Costello stated the Planning Commission is not approving whether or not they agree or disagree with the sale, and this is just whether or not the Planning Commission feels the 537 Plan is accurate or if they feel there are issues with the Plan. Ms. Kirk stated this Report is essentially an Addendum to the Original 537 Plan that the Township filed with the DEP, and it is being prepared because the Township does not intend to retain ownership of the system; and therefore in the future, will not be obligated to maintain the

system and comply with DEP regulations. She stated this is an update to DEP to explain what is going on with the system. Ms. Kirk stated to the extent that there are things that may need to be revised based on perception or wording, the Planning Commission could recommend approval subject to the revisions that the Board of Supervisors deems necessary and appropriate.

Mr. Gill stated he agrees with Mr. Costello and that this seems to be a procedural-type process.

Ms. Stern stated there was discussion about the condition of the Sewer system; and Ms. Kirk stated Mr. Grenier had indicated that he did not believe that the description of the system being in a failing condition was accurate, and that the Township had made plans for the future as to what to do to make repairs in order to maintain the system in good operating condition. Ms. Kirk stated to the extent that there might be language saying it is a failing system, the Planning Commission could recommend approval subject to the revisions that the Board of Supervisors deems necessary and appropriate.

Ms. Stern stated she did not receive the last few pages of the Plan, and she asked if there was anything included about the rate structure. Ms. Kirk stated that would be subject to PUC approval subject to the requirements set forth in the Asset Purchase Agreement between the Township and the buyer.

Mr. Bruch asked what would the ramifications be if the Planning Commission were to take no action and would neither approve nor deny. Ms. Kirk stated the Planning Commission is an advisory board, and their function is to review items that deal generally with Zoning and Subdivision and Land Development; however, there are other things such as Studies of this nature that come before the Planning Commission in an advisory capacity. She stated the Planning Commission makes recommendations to the Board of Supervisors which is the ultimate governing body.

Mr. Costello stated the entire scope of the document is not under the purview of the Planning Commission, although there are pieces of it that are related to issues that the Planning Commission discusses on a regular basis such as planning for future capacity needs for new developments that would be coming before the Planning Commission. He stated if there are issues they see that relate to items that the Planning Commission does not have direct knowledge of such as the condition of the Sewer system, they could recommend to the Board of Supervisors that they get clarification on those items. He stated he does not

feel the Planning Commission can comment on the condition of the Sewer system since that has never been before the Planning Commission, although individually they may have opinions on that.

Ms. Kirk stated the issue of whether to sell the Sewer system or not had gone before the Board of Supervisors after numerous “special group studies” looking at various alternatives that have been outlined in the report on Page 10. Ms. Kirk stated while she was not present for the Supervisors Hearing, she believes that all of the issues were thoroughly discussed and vetted; and ultimately it was decided to sell the system. She stated this was a fairly extensive process.

Mr. Grenier stated the alternatives that were reviewed were not the alternatives for the system itself, and the alternatives that were reviewed were potential new treatment systems. He stated those were vetted by a Sub-Committee of the Sewer Authority, and he sat on that Sub-Committee. He stated there were extensive studies before the sale option came about to vet particular alternatives to deal with the new Morrisville Municipal Plant, and that was over the course of about a year.

Mr. Grenier stated when the Township Manager proposed the sale of the Sewer system after raising the rates 37%, those Studies stopped; and it was then that PFM and Obermayer came in, and the decision was made to sell the system to Aqua.

Mr. Grenier stated with regard to the alternatives shown in the Study, not all of them were discussed in great detail; and it was primarily the alternatives presented were “who is going to buy it, and for how much.” He stated that was what was discussed at the Supervisor meetings. He stated there was a vote to sell to Aqua, but there was not a two-part vote – one to sell the system and one to sell to Aqua; and it was one vote to sell directly to Aqua. He stated public documents have stated that it was a two-part vote where they decided to sell the system and then specifically to sell the system to Aqua, but that is not how the vote occurred. He stated he personally recused himself from voting for a specific seller, and he never got to vote on anything.

Ms. Kirk stated overall it was a lengthy process from start to finish, and Mr. Grenier agreed. He stated there were ten Executive Sessions between April and June of 2020. He stated there was going to be a vote in July of 2020;

however, due to a lawsuit, that was postponed until early to mid-August of 2020 which was when the vote occurred. He stated there had been one or two meetings with Aqua and the other “proposers” before a vote was taken.

Mr. Bruch stated putting aside Section 7 which Mr. Grenier has highlighted, he does not feel that he has information that would lead him to not recommend this; however, he also does not feel that in light of the discussions this evening he has had sufficient time to review this to make a recommendation in favor of approval.

Mr. Gill stated he understands that the Planning Commission is not voting on the actual sale, but is just voting on the document that they were provided for review.

Ms. Stern stated she does not feel she can make an informed decision about the sewers since much of this pre-dates her being on the Planning Commission.

Mr. Bush stated this is the first time they have seen the Amended 537 Study and they have not heard any of the details behind it other than what has been shared this evening by Mr. Grenier, which has been helpful; however, he feels that there is a lot more to it. He stated much of the information provided is technical, and they are being asked to make a recommendation on it. He asked what is the time deadline for the Planning Commission to make a recommendation.

Ms. Kirk stated she felt it was hoped a recommendation would be made by the Planning Commission so that it could be provided to the Board of Supervisors at their next meeting which is January 19. Mr. Bush asked if there is a consequence to putting this off to the meeting after that; and Ms. Kirk stated she understands that the sale is being scheduled, and the hope was to get this to the DEP sooner rather than later.

Ms. Stern asked if the Planning Commission could be provided a summary of what has occurred at past meetings. Ms. Kirk asked Ms. Stern if she is looking for more information from prior meetings with regard to the sale issue or why this is coming to the Planning Commission for review. Ms. Stern stated the sale issue would be the background, adding she does not know enough about the background.

Mr. Costello stated the Planning Commission has been provided a document that includes information, and he tried to determine what was pertinent as a member of the Planning Commission. He stated the Board of Supervisors have indicated that they are selling the system, and they need input from the Planning Commission whether this document is sufficient and does not cause additional concerns from a Planning Commission perspective.

Mr. Bruch stated he feels that a recommendation of approval from the Planning Commission seems unlikely given the discussion; and rather than asking for more time and requesting additional information, it may make more sense to issue a “no recommendation” to the Board of Supervisors and allow the Board of Supervisors to take it up as they see fit at their next meeting. He stated if the Board of Supervisors feels that more information is necessary from the Planning Commission, the Board of Supervisors could request that. He stated in this way, the Planning Commission is not delaying the Board of Supervisors.

Mr. Costello stated he would agree with that given that the Planning Commission has not really been involved in this. He stated he did not see anything in his review of the document that would make him ask that they stop the process. He stated if the Board of Supervisors decides they want the Planning Commission to look into this further, the Planning Commission could then request more information that they could review.

Ms. Kirk stated she feels that this makes sense since the Planning Commission has not been actively engaged in everything relative to the Sewer sale anyway.

Mr. Bruch stated he agrees with Mr. Costello that after he read through the Study, while he did not see any “big alarms” he may have missed something that he may not want to show support for or show a lack of support for.

Mr. Costello asked Mr. Majewski and Mr. Pockl if there is anything in the document that the Planning Commission should be looking into further or that they are concerned about. Mr. Majewski stated the Planning Commission’s role in an Act 537 Planning is limited to whether what is being proposed is consistent with the Comprehensive Plan, Land Use Planning, and Zoning. He stated if his Plan were contemplating changing Zoning from R-1 to High-Density Apartment complexes and building a new sewage treatment to accommodate that, that would generate comments from the Planning Commission. He stated nothing in the document changes the way that we are looking at our planning of the community for the sewage needs of the community, the Land Planning, or the Zoning. He stated it is just a change in ownership, operations, and maintenance of the Sewer system.

Mr. Bush stated he would agree with Mr. Costello and Mr. Bruch that the Planning Commission should not make a recommendation at this time.

Mr. Bush moved, Mr. Costello seconded and it was unanimously carried that the Planning Commission make no recommendation to the Board of Supervisors on the Act 537 Plan Special Study – Sale of the Sewer System.

ACKNOWLEDGE RECEIPT OF PLAN #685 – 1566 LLC MAJOR SUBDIVISION
Tax Parcels #20-018-001, #20-018-001-002, #20-018-002, #20-016-027
R-2 Residential Medium Density Zoning District
1566 Newtown-Yardley Rd, 1472 Newtown-Yardley Rd, 1069 Creamery Rd,
Buck Creek Drive

Proposed plan to consolidate 4 existing lots, remove 2 existing houses and resubdivide the property to create 6 new single-family dwelling lots and one 14-acre lot containing an existing house and ponds

Mr. Majewski stated the time clock for a Subdivision for approval is 90 days from the date after the first Planning Commission after the Plans are submitted. He stated the Plans were received on Friday, and the first Planning Commission meeting was tonight. He stated the Plans are posted on the Planning Commission Web page for the general public to review and there are also hard copies available at the Township. He stated no action is needed by the Planning Commission this evening. He stated the Plans were provided to the Planning Commission, the engineers and other consultants, and other volunteer Committees who are involved in the review process. He stated comments should be back in 30 days, and the Applicant will either make revisions to the Plan and come back or come in front of the Planning Commission to review certain aspects of the Plan.

Mr. Majewski stated he is going to try to arrange a site visit for this property which he feels will be helpful in this case so everyone can get an idea as to what is on the property and where the proposed Lots will be.

Mr. Costello stated whoever the developer is they should be advised that they should not request a Variance from the tree requirements, and they should either put in the trees or pay the fee-in-lieu.

Mr. Pockl stated he has done a cursory review, and he noted the four homes along the back of the property line with access off of Buck Creek Drive where there is an extension that has a cul-de-sac on the north end portion of the property, and they have provided a Lighting Plan (page 19) showing four street

lights along the cul-de-sac. He stated there are no street lights along Buck Creek Drive to his knowledge, and he feels four street lights seems excessive for that neighborhood.

Mr. Majewski stated street lights would not be required although they would be required for multi-family developments where it makes more sense due to the density. He stated he does not know why that Lighting Plan was included since for the most part the Township has discouraged street lights in most low-density Applications. He stated the Planning Commission could weigh in on this when the Plan comes before them.

APPROVAL OF 2021 ANNUAL REPORT

Mr. Gill moved, Mr. Costello seconded and it was unanimously carried to approve the 2021 Annual Report.

Mr. Majewski stated once it is finalized, it will be posted on the Planning Commission Web page.

OTHER BUSINESS

Mr. Grenier stated the Supervisor Liaison assignments for 2022 are the same as they were for 2021 so he will again be the Planning Commission's Supervisor liaison.

Mr. Bush asked if they are going to continue with the Design Guidelines in 2022, and Mr. Majewski stated that will be coming up to be finalized very soon.

There being no further business, Mr. Costello moved, Ms. Stern seconded and it was unanimously carried to adjourn the meeting.

Respectfully Submitted,

Dawn Stern, Secretary