

**ELK TOWNSHIP BOARD OF SUPERVISORS  
DRAFT MEETING MINUTES  
July 12, 2021**

The Board of Supervisors July meeting began at 7:05 PM at the Elk Township Building. The following Supervisors were present: Chairman Albert Jezyk, Jr., Vice Chairman Estace Walters, and Member Milton Rudy. Also present was Township Solicitor Sam McMichael and Township Engineer Stan Corbett.

**Public Comment**

No public comment

**ADMINISTRATIVE ACTION/PRESENTATIONS/CORRESPONDENCE**

**Executive Session w/Township Solicitor & Township Engineer 7/12/21**

Albert Jezyk announced that prior to tonight's meeting, the Board held an Executive Session with the Township Solicitor and Township Engineer to discuss the DeDominicus District Court Appeal request for continuance of oral arguments, the Old Forge Road easement, Kaolin RE Holdings Corporation's peat moss building relocation request and LOC release request #1, and the Harvey and Jennifer Arter Application for Variance.

**De Dominicus District Court Appeal – Request for Continuance of Oral Arguments  
Scheduled for July 22, 2021**

Township Solicitor Sam McMichael stated that Mr. DeDominicus has requested the District Court to grant a continuance of oral arguments scheduled for July 22, 2021. Sam advised that there is no downside to the Township in the Court granting the request.

On a motion made by Estace Walters, seconded by Milt Rudy, the Board agreed not to oppose the request for continuance of oral arguments scheduled for July 22, 2021 in the DeDominicus District Court Appeal. The vote was unanimous.

**Kaolin RE Holdings Corp Peat Moss Building Relocation Request; AECOM  
Correspondences dated 7/8/21 & 6/28/21, Town Square Engineering Correspondences dated  
6/30/21 & 6/22/21**

Township Solicitor Sam McMichael stated that the issue includes whether the Township will require a revised final plan sheet showing the final location of the peat moss building for the Board to review and sign.

Attorney Debbie Shulski, representing Kaolin RE Holdings Corporation, stated that she spoke with the Chester County Planning Commission and that the Commission would have no problem with the peat moss building relocation.

Township Solicitor Sam McMichael advised Attorney Shulski that a revised final plan sheet be provided for the Board to review and sign.

Township Engineer Stan Corbett stated that he will clarify the plan notes with Attorney Joe Riper.

Township Solicitor Sam McMichael clarified that the Township's permission would be for modification of the approved final plan, that the Township is not agreeing to this being a field change, and that a revised final plan sheet reflecting all the changes will be required prior to any permits being issued.

On a motion made by Estace Walters, seconded by Milt Rudy, the Board approved the relocation of the peat moss building subject to the outstanding items from the Township Engineer's July 8, 2021 review memo and conditioned upon recordation of a revised plan sheet memorializing the peat moss building relocation prior to use and occupancy permitting. The vote was unanimous.

**Old Forge Road Easement (Beiler; Lesley; Cowart; Combs; Delaney)**

Township Solicitor Sam McMichael stated that he received a letter from the Lesley's attorney requesting an opinion of the validity and use of the Old Forge Road easement, and that he advised the attorney that he would not provide an opinion without talking to the Board. Sam explained that the Elk Township Subdivision and Land Development Ordinance (SALDO) requires oversight and review whenever land is allocated and that the Township can require Mr. Beiler to submit a plan in accordance with the SALDO. Sam explained that the Township has no control over ownership or limiting users but does have control over how the easement is used under the SALDO. Sam recommended that the Board authorize him to notify the owner(s) that a plan must be submitted to the Township. Sam noted that this is the first public discussion of the issue by the Board.

Public Comment: Andy Delaney stated that he was under the impression that only the deeded property owners could use the easement.

Township Solicitor Sam McMichael explained that most ordinances control when it becomes a public use. Sam recommended that the Board authorize him to notify the owner(s) that compliance with the SALDO is required and that a SALDO application is required.

On a motion made by Albert Jezyk, seconded by Estace Walters, the Board authorized Township Solicitor Sam McMichael to notify the property owners (Beiler and Leslie) that compliance with the Elk Township Subdivision and Land Development Ordinance (SALDO) is required, and that a SALDO plan and application are required. The vote was unanimous.

**Application for Variance from Harvey and Jennifer Arter Parcel #70-3-41.7 1949 Barren Road**

Township Solicitor Sam McMichael stated that the Township has received a variance application for storage use and commercial operation of the Arter property. Sam explained that the Arters requested that the Township confirm the lawful non-confirming use and that he advised the Board that this not the Township's job. Sam explained that the Arters have applied for a variance and that the Township has a right to participate in the zoning hearing. Sam recommended that the Board oppose the application for variance and authorize him to participate in the zoning hearing.

On a motion made by Estace Walters, seconded by Milt Rudy, the Board agreed to oppose the Harvey and Jennifer Arter Application for Variance, and authorized the Township Solicitor Sam McMichael to participate in the zoning hearing. The vote was unanimous.

**Kaolin RE Holdings Corporation LOC Release Request #1**

Albert Jezyk stated that this issue will be discussed at next month's meeting.

**Timothy and Theodore Nugent Agreement of Sale and Funding Agreement for Purchase of Conservation Easement (County's Challenge Grant Program)**

Albert Jezyk stated that the Township previously committed to partner with the County in the purchase of the conservation easement for Timothy and Theodore Nugent's parcel. The Township's contribution towards the purchase is \$62,476.12 plus incidental closing costs.

On a motion made by Estace Walters, seconded by Milt Rudy, the Board agreed to sign the Agreement of Sale and Funding Agreement for Purchase of Conservation Easement (County's Challenge Grant Program) for the Timothy and Theodore Nugent parcel. The vote was unanimous.

**Invitation to Bid for 2021-2022 Roadwork Equipment Rental w/Operator, Snow Plowing/Ice Removal Services Equipment Rental w/Operator, Aggregate Materials, Blacktop Mixes, Liquid Asphalt**

Albert Jezyk stated that one bid per category was received except for Aggregate Materials and Liquid Asphalt for which no bids were received. Harlan Construction was the only bidder for Roadwork Equipment Rental and Carter & Sons Lawncare Inc. was the only bidder for Snow Plowing/Ice Removal Services. These bid proposals were the same line-item costs as last year's bids. Allen Myers was the only bidder for Blacktop Materials and line-item costs were increased from last year's bid.

On a motion made by Estace Walters, seconded by Milt Rudy, the following bid contracts were awarded: Harlan Construction Company Roadwork Equipment Rental w/Operator total contract \$60,675; Carter & Sons Lawncare, Inc. Equipment Rental w/Operator total contract \$76,250; Allen Myers Blacktop Materials total contract \$107,800.50. The vote was unanimous.

**Armstrong Correspondence dated 7/9/21 - Franchise Agreement**

Albert Jezyk stated that the Township Solicitor Sam McMichael will arrange a meeting with Armstrong. Albert explained that the Oxford Regional Planning Commission looked into this and hasn't had much luck. The Board will coordinate with Sam to arrange a meeting.

**Auditor Jennifer Mason Resignation Letter dated 6/23/21**

Albert Jezyk stated that Township Auditor Jennifer Mason has provided a letter of resignation due to moving out of the County. The Board will look for someone to serve as Township Auditor.

**Brandywine Conservancy Presentation on the Developable/Preservation Opportunity Analysis (August BOS Meeting)**

Albert Jezyk stated that the Brandywine Conservancy presentation on the developable/preservation opportunity analysis has been moved to the Board's August meeting.

**STAFF REPORTS**

**Secretary's Report**

On a motion made by Albert Jezyk, seconded by Milt Rudy, the Board of Supervisors June 7, 2021, Meeting Minutes were approved. The vote was unanimous.

**Treasurer's Report**

On a motion made by Albert Jezyk, seconded by Milt Rudy, the Bills to be Paid for July were approved except for Roadmaster. The vote was unanimous.

On a motion made by Albert Jezyk, seconded by Milt Rudy, the bill to be paid for Roadmaster was approved. Estace Walters abstained from the vote.

### **Tax Collector**

June 2021: \$

### **Planning Commission**

June Minutes: No new business.

### **Zoning Hearing Board**

No action.

### **Zoning/Building Report June 2021**

No report.

### **Roadmaster**

Roadmaster Estace Walters reported that he picked up about twenty (2) tires from Baren Road and glass from a sunroof; cut up trees that were on the Barbara Robbins side of the trail; had Brian cut up a tree that fell partially across Camp Bonsul Road; met with Steve Snyder about dead trees at bottom of Hickory Hill Road; called the State again about Chesterville Road and Strickersville Road washouts; there is still a tree on Old Forge Road that has a broken limb across the road hung up in PECO wires, it sits high enough but we are at the mercy of PECO to get it done; Chris mowed back the trail and has it looking nice.

### **Trails Report**

No report.

### **Emergency Management Coordinator**

Emergency Management Coordinator Milt Rudy reported the following Chester County Department of Emergency (CCDES) Services activities: they now has mass casualty transport capability; they are looking at establishing a regional comfort center; they are changing the national weather service warning system to focus on watches and warnings, and will use as categories: base, considerable, and destructive; they forecast this hurricane season will have 3 to 5 major hurricanes; the Limerick nuclear plant exercise will be in November; they are updating municipal EOPs, and Elk Township EOP is not updated; and FEMA Is updating their certification checklists for EMCs.

Milt also reported that because we are unable to recruit a replacement for Steve Roberts as EMC, Milt will volunteer for that responsibility and enter the necessary training program.

The Board thanked Milt for his time and efforts, and for volunteering to serve as Emergency Management Coordinator.

### **Oxford Area Recreation Authority**

OARA June Report: OARA has received the \$6,500 grant for construction of a playground and trails; plan to bring back Halloween event; has outgrown its document storage at East Nottingham Township and will move all papers to West Nottingham Township; preparing documentation to quantify losses due to Covid-19; hope to work

with member municipalities on how to use the ARPA funds to their full potential for the community.

**Open Space Committee**

No activity.

**OLD BUSINESS**

**Enforcement Notice 1204 Old Forge Road**

Estate Walters stated the Scott Moran Mr. Sterling has responded to the enforcement notice. Scott Moran has discussed the issue with the Township Solicitor and will continue to follow-up.

**NEW BUSINESS**

**Township Building Painting Quote**

Albert Jezyk stated that he received a quote for painting of the Township Building. The quote was from Bell Painting in the amount of \$8,900.

On a motion made Albert Jezyk, seconded by Milt Rudy, the Board agreed to the Bell Painting quote in the amount of \$8,900 for painting the Township Building. The vote was unanimous.

**Township Building Parking Lot**

Milt Rudy stated that he noticed an auction business using the parking lot. Milt suggested that the Board look into installing signage.

**PUBLIC COMMENT**

Andy Delaney asked about the turnaround time for the easement issue.

Albert Jezyk responded that the Township Solicitor is handling the issue.

Meeting Adjourned at 8:40 PM.

Respectfully Submitted,

Terri Kukoda  
Secretary/ Treasurer