

MINUTES JUNE 16, 2021
UPPER NAZARETH TOWNSHIP BOARD OF SUPERVISORS

Meeting called to order at 7:00 p.m. by Chairman Mike Rinker. The meeting was conducted in a hybrid format with the meeting room open to the public and others able to participate virtually.

Pledge of Allegiance

Board members present were: Mike Rinker, Scott Sylvainus, Donna Hirst, and Kristin Mullen. Robert Disbrow was absent.

Also present were Township Manager, Lisa Klem, Township Solicitor, Gary Asteak, and Treasurer, Betty Parrish. Township Engineer, Sean Dooley participated virtually.

COURTESEY OF THE FLOOR

Mr. Rinker recognized Bushkill Township Boy Scout Troop #74 who were present for the meeting. The Boy Scouts present are working on their Cities and Communities and Communications merit badges.

APPROVALS

Motion was made by Ms. Mullen and seconded by Mrs. Hirst to approve the agenda. Motion carried by all voting aye. (4-0)

Motion was made by Mr. Sylvainus and seconded by Mr. Rinker to approve the minutes of the June 2, 2021 meeting. Motion carried by all voting aye. (4-0)

Motion was made by Mr. Sylvainus and seconded by Mrs. Hirst to approve payment of the bills. Motion carried by all voting aye. (4-0)

Motion was made by Ms. Mullen and seconded by Mr. Sylvainus to approve the May, 2021 Financial and Treasurer's Report. Motion carried by all voting aye. (4-0)

SUPERVISORS' COMMENTS

Mrs. Hirst attended the NAZCOG meeting on Tuesday, June 15, 2021. UNT resident Nathan Pritchard, who is an employee of the Northampton County Conservation District was a speaker. Nathan talked about the sinkhole problems in this area which are caused by limestone and the water flow. The County is reviewing the Bushkill Creek for erosion of the banks affecting the houses and has plans to review the Schoeneck Creek. When the Schoeneck Creek is reviewed, the County will involve Upper Nazareth Township as well as MS4. As a reminder, all residents should have sinkhole insurance which only covers the building on your property and not your yard. If a citizen of Upper Nazareth Township has a sinkhole problem, their might be some assistance available by contacting the County or the Township. Buzzi Unicem is going to be receiving permission from DEP to dig an additional 50”.

TOWNSHIP ENGINEER

Nothing at this time.

TOWNSHIP SOLICITOR

Attorney Asteak reported getting back the tax exemption certificate from RC Lonestar that was needed to file for property tax exemption with the County for the leased property at 155 Friedenstahl Ave. Attorney Asteak has reached out to the County Solicitor as well as the Nazareth Area School District as to why we are asking for this exemption.

TOWNSHIP MANAGER/ADMINISTRATION

In conjunction with our recent ordinance establishing the Environmental Advisory County, Mrs. Klem has received letters of interest from 5 individuals, Nathan Pritchard, George Haskar, Kristin Mullen, Donna Hirst and Scott Sylvainus, wishing to serve on the Environmental Advisory Council. This is a 5 to 7 member Council, therefore, the Township is still looking for two additional members. Mr. Rinker suggested looking for an additional two individuals and tabling the appointments to the EAC until a full board was present.

Mrs. Klem stated a training session was held for the CS Datum Mapping software and the permit manager will be live and training is being held on Monday, June 21, 2021.

APPROVAL OF DEPARTMENT REPORTS

Motion was made by Mrs. Hirst and seconded by Ms. Mullen to approve the May, 2021 Fire, Police, Public Works, and Zoning. Motion carried by all voting aye. (4-0)

PLANNING & ZONING

Mr. Jim Vozar of JVI, LLC., developer for the tract at 3363 Gun Club Road, presented the Tadmor 2 Plan to the Board for approval. Mr. Vozar stated the plan before the Board is an unchanged plan from what was presented to the Planning Commission several months ago. JVI has been engaged with the outside agencies LVPC, DEP, and the Conservation District and have since received LVPC approval. JVI is in the final stage of their MPDES permit which should be received shortly. Submission has been made to PennDOT for the HOP at Route 248 and Gun Club Road and for the water source utility extension down 946 and Christian Springs. Therefore, we are seeking final approval on this plan. The Sewer Authority has reviewed and approved the pump design and a service agreement is in place for the Tadmor 2 facility, and potentially the Exigo, Beatty, and Hildenbrand properties. The 105 approval has been received from the Army Corps of Engineers.

Mr. Dooley commented since the submission to the Planning Commission for review, there was an additional list of items that were basically grammatical with respect to the legibility of the plan and these were addressed and JVI resubmitted review. That is the plan before you for approval. Mr. Dooley's letter of June 10, 2021, addressed to the Board outlines his comments and there is no objection to approval of the plan conditional on the June 10, 2021, letter and receipt of the MPDES permit.

Attorney Asteak presented Resolution 21-11 which is a proposed resolution to grant final conditional approval to the Subdivision Plan and Resolution 21-12 which is a resolution to grant final conditional approval to the Land Development Plan. It should be noted that attached to Resolution No. 21-11 and incorporated in that is the Engineering Review Letter of June 10, 2021, along with all the exhibits that are attached as well as a supplemental commentary letter of June 10, 2021, referred to as Final Land Development Plan, Cycle 2 Review, Supplemental Comments. That comprises the packet for the Resolution for the Subdivision Plan. Conditional Final Approval for the Land Development Project Tadmor 2 consists of the language of the resolution itself which incorporates several documents which are the June 10, 2021, letter as well as the June 10, 2021, supplemental comments letter and the May 7, 2021, comments letter from Keystone Consulting Engineers which is referred to in the June 10, 2021, letter. A list of Gun Club Road improvements should be attached to the Resolution, outside the limits of Land Development, which the developer has agreed to provide as part of the conditions of approval. This was provided as part of one of the letters and should be memorialized as part of the Resolution.

Attorney Asteak stated a letter was received today from an unidentified group naming themselves the Upper Nazareth Township Citizens Group containing a series of questions which I will bulk together and respond as follows. The first question was "Since there is pending litigation, how can Project Tadmor 2 proceed through the review process and potentially be given approval?" Attorney Asteak responded the Citizens Group or the individuals who have filed multiple suits against the Township and the Developer have not sought a stay of the Boards' consideration, meaning they have not asked the Judge to stop the Board from considering it. There is no legal impediment for us to proceed with consideration, and in fact, the Pennsylvania Municipalities Planning Code and our SALDO requires us to consider it and take action within a certain period of time in the absence of any extensions granted by the Developer.

It is being suggested that the Township has not provided the citizens with information and how are the citizens supposed to know what is going on at these meetings with Project Tadmor being reviewed. Attorney Asteak responded all of the Supervisors Meetings and all of the Planning Commission Meetings at which Project Tadmor has been discussed have all been public meetings. During the Governor's closure, all of our meetings were broadcast via Go to Meeting and properly advertised as such, and in fact, at some of those meetings some of the representatives of the Citizens Group asked questions and participated. There has been full disclosure at our public meetings of the Boards' review. There has been, however, staff and engineering review going on almost constantly with regard to a variety of both legal and engineering subjects that were raised and those issues could have been tracked through the public meetings during which they were discussed by the Township Engineer. There have been voluminous Right-to-Know Requests provided to anyone who sought to delve deeper into the records.

The questions of "reports", which has been the subject of litigation and may still be the subject of pending litigation, the issue of what reports are and what determinations are have been the subject of pretty exhaustive issues involving the Zoning Hearing Board and now the Court of Common Pleas. Questions no. 5 "Has the Township Zoning Officer ever issued a use determination for Project Tadmor 2", the answer is as follows. On April 7, 2021, the Developer NP Gun Club Building 1, LLC., applied for a Zoning Permit from the Zoning Officer. The Zoning Officer in response to the application for the Zoning Permit wrote "It is the determination of the Zoning Officer that the Zoning Application complies with the Upper Nazareth Township Code of Ordinances to the best of his information, knowledge and belief that a warehouse is a permitted use in the Zoning District of I-2 as it applies to the Northampton County Tax ID Parcel Locations given. The

application refers to the construction of a 1,006,155 SF warehouse. The Township received from the Developer's counsel a proof of publication indicating that a notice pursuant to the Municipalities Planning Code was published in the Morning Call, a newspaper of general circulation in Northampton County on April 26, 2021, and May 3, 2021, giving the public notice of the issuance of the Zoning Permit and determination contained therein.

This is on the agenda for consideration and was publicly advertised to be on the agenda and was on the agenda at our last Planning Commission Meeting and was publicly advertised.

Attorney Asteak stated the PA MPC requires that if you vote to reject a Subdivision or Land Development Plan you must give reasons for that rejection and the reasons for the rejection must cite specific sections of our ordinances that have not been complied with.

Mr. Sylvainus mentioned that another plan was submitted prior to Tadmor 2 and questioned what happens to that plan if the Board approves the plan before them. Attorney Asteak responded it is up to the developer to select which plan they intend to pull the building permit on. Once a building permit is pulled, the other plan goes away. Attorney Kate Durso representing the developer responded the previous plan only has preliminary approval for Project Tadmor 1, and the intent is to move forward with the plan for Tadmor 2. Attorney Asteak commented he did not think anyone wanted a warehouse in that location or that anyone thought a warehouse would be built there, however, the ordinance provides for this use and this property is zone for that. Unfortunately, everyone is subject to the zoning designation they live in. The Zoning Ordinance says what it does and the Board is, when it comes to land use issues, obligated and must follow the law of the PA MPC, the Zoning Ordinance, and the Subdivision and Land Development Ordinance.

Motion was made by Mr. Sylvainus and seconded by Mr. Rinker to adopt Resolution No. 21-11 Tadmor 2 Minor Subdivision Plan. Motion carried by a vote of 3-1 with Ms. Mullen opposed.

Motion was made by Mr. Sylvainus and seconded by Mr. Rinker to adopt Resolution No. 21-12 Tadmor 2 Final Land Development Plan. Motion carried by a vote of 3-1 with Ms. Mullen opposed.

PUBLIC WORKS

Mr. Shupe requested approval for a pay increase to \$22.80 for the Laborer 3 as he has completed his 90 days probation.

Motion was made by Ms. Mullen and seconded by Mrs. Hirst to approve the pay increase to \$22.80 for the Laborer 3. Motion carried by all voting aye. (4-0)

Mr. Shupe commented all PW employees have at least their Class B licenses.

RECREATION

Nothing at this time.

POLICE DEPARTMENT

Police Chief Cope requested approval for the donation of police services for the McDonalds All-Star Football Game on June 17, 2021, at Nazareth School District Football Stadium on Liberty St., Nazareth.

Motion was made by Mrs. Hirst and seconded by Ms. Mullen to approve the donation of police services for the McDonalds All-Star Football Game on June 17, 2021. Motion carried by all voting aye. (4-0)

EMERGENCY MANAGEMENT

Mr. Rinker requested approval to lift the Emergency Disaster Declaration.

Motion was made by Mr. Rinker and seconded by Mrs. Hirst to lift the Emergency Disaster Declaration. Motion carried by all voting aye. (4-0)

SAFETY COMMITTEE

Nothing at this time.

FIRE DEPARTMENT

Nothing at this time.

OLD BUSINESS

Nothing at this time.

NEW BUSINESS

Nothing at this time.

ADJOURNMENT

Motion was made by Mrs. Hirst and seconded by Mr. Sylvainus to adjourn at 7:36 p.m. Motion carried by all voting aye. (4-0)

Respectfully submitted,

*Betty Parrish
Recording Secretary*