



Board of Supervisors Public Meeting Minutes
Monday, April 27, 2020, 7:00 P.M.

The implementation of the GoToMeeting Remote Platform for public meetings complies with the Disaster Emergency Orders and Proclamations issued by Governor Wolf to mitigate the spread of the COVID-19 Virus.

Attendance: Physically present in the meeting room: Supervisors – Ricki Stumpo, Elaine DiMonte, Ray McKay. Remote participation: Amanda Sundquist, Township Solicitor; Mark Knightly, Public Works Director; Al Davis, Alternate Commissioner, Kennett Area Fire and Emergency Services Regional Commission (“Commission”).

Public in attendance via remote access: 38

1. **Call to Order:** Stumpo called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance. DiMonte provided overview of meeting protocols for remote participation, including recommendations to eliminate audio feedback. She indicated all participants will be muted until the call for public comment.
2. **Sunshine Announcements:** DiMonte and McKay met twice on April 8th and on April 13th on a personnel matter. Board met in Executive Session on April 21st.
3. **Announcements:** Stumpo announced that the Primary Election will be held on June 2nd and the polling location moved to Pocopson Elementary School. Therefore, Primary Election Day Holiday moves to June 2nd. DiMonte announced that the Board receives updates on the COVID-19 situation from Kevin Gosselin, Township Emergency Manager. Reports indicate approximately 30 cases in Pocopson with 1 reported death.
4. **Public Comment Non-Agenda Items:** Board did not receive any written items. DiMonte stated all participants are unmuted at this time and called for public comment on non-agenda items. Scott Kirkland was recognized and noted that the February 24th Board Meeting Minutes omitted four talking points for the stormwater management (SWM) concern in Riverside discussed during the meeting. The four talking points are as follows: (a) Township Engineer acknowledged and stated the Township is addressing only those concerns under the MS-4 Plan that can be credited by the DEP; therefore, funds are not being spent on other concerns that represent greater need; (b) SWM concerns in Riverside originating on the adjacent property have been brought to the attention of the Township but have not been addressed; (c) representatives of Riverside believe it is the Township’s responsibility to resolve these SWM concerns as the Township approved the subdivision plan; and (d) Township Engineer acknowledged the Riverside Quarterly Inspection Reports indicate deterioration of the area in question since the construction of the Daycare on the adjacent parcel.
5. **Work Session:** Stumpo indicated that the April 22nd Work Session was cancelled.
6. **Ratification of Layoff of Receptionist:** Supervisor Stumpo announced her recusal regarding this agenda item. DiMonte indicated that on April 13th the receptionist position was deemed non-essential as workflow demand and volume of services diminished due to the COVID-19 crisis. It was a difficult decision to layoff the receptionist position. As noted under Sunshine Announcements, the decision was made after meeting with the Township Solicitor. MOTION: McKay moved, DiMonte seconded, to ratify the April 8, 2020 decision to lay off the receptionist effective April 13, 2020; motion carried. PUBLIC COMMENT: Sean Rafferty asked if the employee will be brought back. Board

indicated that this was not a furlough and that when the COVID-19 crisis ends, the Township will re-evaluate the position. Rafferty indicated that in his opinion, the layoff looks bad from an outside perspective even with the Federal government continuing to add trillions of dollars to the debt. He commented that the optics are bad when the Township lays off the person who makes the least amount of money and went before the Board of Auditors in January for a raise. DiMonte noted that the concern regarding the Board of Auditors issuing a pay increase is a separate agenda item this evening and was not factored into the Board's decision for the layoff. She noted that the decision was difficult and it was not personal. The receptionist position provides no back-up or support for other positions. In addition, receptionist tasks cannot be completed in a work-from-home capacity. McKay concurred with DiMonte, emphasizing that this was not an easy decision and it was not a personal decision. He noted that the fact is the work just isn't there for a receptionist. Rafferty expressed that perhaps it was his misunderstanding, but he understood other positions were getting paid for not working. Knightly indicated that Public Works employees are working split shifts every day and employees are always on call or attending required annual certification training. McKay noted that Public Works is using time to resolve a backlog of tasks from work on the removal of the tobacco barn. He also indicated that administrative personnel are working from home and rotating shifts to provide coverage in the office. The receptionist position is tied to assisting the building inspector who is not permitted to issue permits. Rafferty commented that he was not making an allegation as he is not privy to the Board's conversations, however, the optics are bad. McKay responded that his decision process is based on facts, not optics.

7. **Motion Authorizing Constable to Enforce Zoning:** Stumpo noted that given the nature of concerns the Township is investigating under the Township Code, Township Zoning Officials, Castle Valley Consultants, Inc. ("CVC"), identified the elected Constable Michael Balsama as an available resource to provide assistance in responding to the concerns. Balsama will coordinate observations and sound measurements with CVC. The Board executed a contract with Balsama previously regarding constable services and as fire marshal. Certifications, insurance, and licensures are on file with the Township. MOTION: Stumpo moved, McKay seconded, to authorize Constable Michael Balsama to act as Deputy Codes Enforcement Officer under the direction of the Township's Code Enforcement Officer, for the purpose of taking sound measurements and recording observations of activity at locations in the Township that are currently the subject of investigation regarding Township Code complaints; motion carried. MOTION: Stumpo moved, McKay seconded, to authorize compensation at the rate of \$36.00 per hour plus mileage; motion carried.
8. **Doyle Zoning Hearing Board Application; 1342 Lenape Road, Tax Parcel 63-4-141.1A:** Sundquist noted that the sealed site plans are posted on the Township website as visuals for the discussion. Remote participants for the discussion: Michael J. and Michele M.L. Doyle ("Applicants"), Lance Sumser, Sumser Homes, and John Hoertz, J2H Designs, LLC. Board is in receipt of the Application, Township Planning Commission Recommendation, and Comment and Review Letters from the Zoning Official and Township Engineer. Hoertz introduced himself as Architect for the project and led the discussion. He presented that the 1.41 acre (gross area) parcel is zoned Limited Industrial and existing improvements include a dwelling, 2 sheds, and an in-ground swimming pool. Hoertz presented that the Applicants seek to demolish 1 shed and construct an 804 square foot attached garage and storage area. The Applicants seek variances from Zoning Chapter 250-45.D (side yard setback) and 250-85.H (prohibition against expansion) given the various nonconformities of the existing conditions. Hoertz presented that the genesis of the nonconformities occurred sometime in the past when the Township revised the Zoning Map and the parcel was adjusted from residential to limited industrial. McKay indicated that he is familiar with the location of the property on Route 52 under the power lines. Sundquist indicated that the Board may recommend relief, take no position on the request for relief, or oppose the Application. No Public Comment. MOTION: Stumpo moved, DiMonte seconded, to recommend that the Zoning Hearing Board grant the relief requested by the Applicants; motion carried.

9. **Citizen's Request to be on Agenda Regarding Board of Auditors:** Supervisor Stumpo announced her recusal regarding this agenda item. DiMonte indicated the discussion this evening is for the elected Board of Auditors ("Auditors") to address the particulars of Scott Kirkland's letter dated February 1, 2020. Remote participation by Auditors Timothy Connolly, Charles Benzel, and Joyce Wertz. Scott Kirkland was not able to provide audio response during discussion. Auditors thanked Mr. Kirkland for his letter and Connolly said that as Sean Rafferty noted previously, the Auditors could have done a better job with the optics in the decision-making process. Connolly indicated that the Auditors looked at a number of factors with Ms. Stumpo's employment, including the tenured experience she brings to the receptionist position. It appears that an employee was hired part-time to do other tasks and Auditors compared some of those hard skills, such as computer skills, with Ms. Stumpo's 17 years of experience. Connolly said the Auditors tried to reconcile hard skills with the value of experience as well as their own professional dealings when Ms. Stumpo was involved. Benzel added that in a nutshell, the Auditors were concentrating on a disparity in pay using just the one data point being length of service. He regrets that the Auditors were not informed of position descriptions in advance of their meeting. Wertz added that the Auditors were not aware that they could suspend the meeting or that they could seek advice from a Solicitor – both steps would have been helpful in finding a path forward rather than making a decision that night. She acknowledged that the Auditors did everything they could that night to obtain information regarding the part-time positions, and that the Auditors recognized Benzel as the only Auditor who has interfaced with Ms. Stumpo in Township capacity. Wertz indicated that the Auditors relied on Benzel's vote as to the pay increase. Connolly clarified that the pay increase was to be a one-time merit increase adjustment given that the small incremental increases over time have lagged behind other employees. He acknowledged that reform must be undertaken by the Township going forward when Auditors are required to undertake this task. Educating the Auditors as to specific position descriptions and skill sets as well as the appointment of a solicitor will aid future Auditors in this process. He added that a decision of this magnitude should be documented particularly when compensation is directly tied to that which is budgeted by the Board of Supervisors. DiMonte indicated that she and McKay met and going forward, identified guidelines for a supervisor-employee, none the least of which is requiring the direct manager to attend the Auditor meeting to answer questions in real time regarding performance. In the instant matter, Susan Simone, the direct manager, had no knowledge that Ms. Stumpo planned to go before the Auditors regarding a merit increase. DiMonte added that pay increases should be discussed in advance with the Board of Supervisors so that there is confirmation that the increase will be supported by the budget. To better prepare the Township for future supervisor-employee positions, DiMonte and McKay will take steps necessary to review the Employee Handbook to include policy provisions. PUBLIC COMMENT: Alice Balsama commented that policy review should include a definition as to what qualifies as a merit increase as tenure is not relevant if the individual is performing badly over time. She offered that in her professional career managing people, a merit increase is not simply viewed as an emotional decision but should be based on good, clear business logic comparing adequacy of positions and performance. DiMonte thanked the Auditors for attending this evening. McKay asked the Auditors why they did not ask Ms. Stumpo why her direct manager was not present. Wertz did not recall this question being raised. Benzel indicated that it would have been difficult for anyone to attend when they did not know Ms. Stumpo planned to appear. Connolly noted that the Auditor's meeting is a public meeting and he did not have a recollection of a supervisor or direct manager attending previously. He added that the Auditors are in a difficult position when looking at a procedure for one employee. McKay commented that to avoid a conflict of interest with the Board of Supervisors, the Second Class Township Code provides the process by which the Auditors must determine the compensation for a supervisor-employee and that statewide, this is not an uncommon occurrence, although quite often the supervisor-employee is the roadmaster. Wertz added that the decision of the Auditors was made in haste with emotion, and made without the benefit of all the information. She recommends that going forward someone from the Township be

available to address the Auditors. There being no further public comment or discussion, Benzel asked and the Board granted his request to be excused.

10. **Citizen's Request to be on Agenda Regarding Ethics Concern:** Supervisor Stumpo announced her recusal regarding this agenda item. DiMonte acknowledged receipt of a letter from Randy and Sarah Mims dated April 20, 2020, regarding Supervisor Stumpo ethics violations. Randy Mims explained that the matter is not emotional or personal, it is simply the latest example of what has been a concern for a number of years. He noted the latest example is the previous agenda item discussed with the Auditors. Mims pointed out that Supervisor Stumpo placed herself in a conflict of interest situation when she recommended the selection of Auditor Charles Benzel to serve on the Board of Auditors whose task is to set her compensation. This is an egregious violation and a clear conflict of interest. Supervisor Stumpo violated her fiduciary responsibility when she did not alert her direct manager or an elected supervisor of her plans to go before the Board of Auditors and seek a merit increase. Mims read the letter aloud and asked that Supervisor Stumpo resign. McKay responded that it is not within the purview of the Supervisors to call for Stumpo's resignation. Mims briefly described the process with regard to removal of an elected official. McKay agreed that current events have shed a different light on what appears to be a situation that has been fraught with problems over the years, most recently with the manifestation in January of the Auditor's meeting. He commented that the Township will take great care and a closer look at the actions or inactions of supervisors in the matter of recusals. McKay was firm in expressing that going forward, the best interests of the Township will be first and foremost, and that includes working relationships and efficiencies in the office. Mims understands that DiMonte and McKay cannot force the resignation and that the ethics concern is raised as to Stumpo's actions as supervisor not as receptionist. Mims asked Supervisor Stumpo to do the honorable thing and resign; otherwise, the matter will be taken to the State Ethics Commission. PUBLIC COMMENT: Sean Rafferty asked why this question was not raised with Charles Benzel, particularly since the alleged action surrounds his appointment as Auditor. Mims commented that through submission of a PA Right-to-Know Request, Mims obtained emails from Supervisor Stumpo to the Treasurer and Board Members recommending the appointment of Benzel rather than recusing herself. It is a conflict of interest to recommend the person who will be setting your compensation. Joyce Wertz commented that she appreciates the recommendation is about an ethics violation, but at no time did she have a feeling that there was a personal relationship between Benzel and Stumpo. Mims indicated that the issue at hand is the recommendation. Charles Benzel rejoined the meeting to clarify that the decision by the Auditors was to strive for equal pay which was not out of line. Mims expressed that the pay equity matter is separate and apart from an ethics violation. The compensation has nothing to do with the ethics – it's how we got to this point. It is a violation of fiduciary responsibility when Supervisor Stumpo asks for a significant increase in receptionist compensation and chooses not to inform her direct manager or a member of the Board of Supervisors of her intent to go before the Auditors. There being no further public comment, DiMonte thanked everyone for their participation on this agenda item. Sarah Mims ask Supervisor Stumpo if she would resign. DiMonte noted Stumpo's recusal for this agenda item. The question will be posed again at the May public meeting.

11. **Public Works Report:**

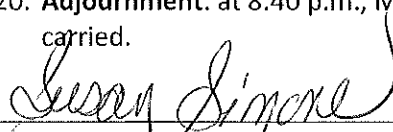
- a. **Riverside at Chadds Ford Stormwater ("SWM") Concern** – McKay reported that in February, Scott Kirkland, representing Riverside, attended the public meeting to discuss the impact of SWM coming from the Ducklings Daycare Parcel. On April 13th at approximately 9:00 a.m., during a significant rainstorm, Knightly and McKay observed a small amount of water coming from the Ducklings Daycare driveway going into a storm drain and exiting from a small culvert pipe in the headwall on the east side of the highway. The water never went into the retention basin on the west side. Water in the natural swale east of the tennis court area flowed at a gentle rate and did not appear to be coming from the Daycare. Water was coming from the small parking area for the tennis area, flowing parallel to the roadway and across a stoned walkway. The greatest outflow during the rain storm comes from the retention basin on the

west side owned by Riverside which controls individual properties. Flow coming through several inlets was heavy and swift. There was considerable erosion on the west side of the pond in the area that was recently mulched. The outflow was great in the 3 culvert pipes feeding the swale between Lots 16 and 18. Based on these observations, McKay's opinion is that the speed and volume of the water has no appreciable impact on the channel in question. Stumpo noted that resolution of the matter should be left to Riverside and the Daycare.

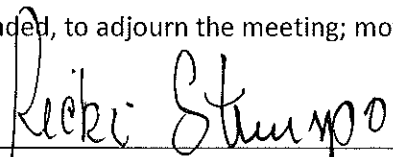
- b. Other – Knightly reported that the Southern Chester County Cooperative was uncertain as to allotted work that can be bid this year but should have an answer next month. DiMonte asked if Public Works would sort out the issue with the security cameras installed on the Barnard House property and perhaps post signage that the parking lot is under surveillance. Stumpo reported the Board previously approved (November 25, 2019 meeting) the purchase of a Dodge Ram 5500 Chassis Cab Tradesman 4x4 truck. The pre-approval noted that the cost of the new truck would be partially defrayed by the proceeds from the sale of the existing 2011 Ford F550 through Municibid. MOTION: Stumpo moved, McKay seconded, to list the 2011 Ford F550 truck for sale on Municibid after delivery of the new 2019 model; motion carried.
12. **Facilities:** DiMonte reported that the Board is reviewing 2 schemes for the new township building located in the area of the demolished tobacco barn. Supervisors and Knightly met on April 21st to discuss the schemes and make a selection which will form the detailed design for final selections and project documents. Original intention was to have the building under roof by the end of 2020. However, due to the COVID-19 crisis, the timeline for bidding has been pushed out to January 2021 with construction targeted for Spring 2021. Likewise, McKay reported COVID-19 brought work to a halt on the Barnard House on March 20th. It is understood that work can resume on May 1st at which time the contractors will make every effort to finish the project. He reported that the white, metal storm doors will be removed from the Barnard House and replaced with wood doors. DiMonte and Stumpo thanked McKay for his efforts and were delighted to learn the storm doors will be replaced.
13. **Kennett EMS Commission:** Davis reported the April meeting was conducted via video conferencing. Fire Companies have indicated that they have COVID-19 protocols in place, including but not limited to, taking temperatures and mitigation when crews return to the station. Equipment and vehicles are sterilized after each response. For this reason, the Fire Companies could use donations of cleaning supplies. Longwood Fire Company posted a list of needed supplies on their website. Kennett Township pitched a presentation to provide administrative services for the Commission. Such services include accounting and responding to PA Right-to-Know Requests. The decision on the proposal was tabled for a future meeting. DiMonte asked if the link for the supply list could be added to Pocopson's website and if donations can be dropped off. Davis indicated that there is a drop site at the building. PUBLIC COMMENT: Connie Carter commented it is important to remember the first responders because they are volunteers and they make sure every day that the community is safe.
14. **Planning Commission ("PC") Report/April 1, 2020 Meeting:** Stumpo read aloud the PC report noting that a virtual meeting was held with Doyle Zoning Hearing Board Application as the sole agenda item. The next PC meeting is Wednesday, May 6th.
15. **New Business:**
 - a. Update/Nuisance Concerns Clarks Lane and Trimbles Ford Lane – DiMonte read the particulars of an initial concern filed in August 2019 of significant land disturbance on a parcel in the White Farm Subdivision located on Trimbles Ford Lane. The concern was referred to the Chester County Conservation District who instructed the individual to post an erosion and sediment control plan. From October 2019 to December 2019, the Township Engineer and Township Zoning Official have responded to concerns at the site regarding gun fire and excessive noise from motorized vehicles using a dirt track constructed on the property. The Township Engineer determined that the level of disturbance warrants submission of a Grading, Erosion, and Sediment Control Application. On April 7th, the Township received the Application and the \$1,000.00 review fee which is under review by the Township Engineer. McKay reported that the

Township received an initial concern in December 2019 regarding construction of a dirt bike track and noise occurring on a parcel on Clarks Lane. Building Inspector, Zoning Official, and Township Engineer provided reports on their findings. During the March 23, 2020 public meeting, a statement submitted by a resident on Clarks Lane was read aloud regarding noise and nuisance concerns for the Clarks Lane property. PUBLIC COMMENT: David Carter commented that Township Code Section 125-4 provides that no person can create noise which interferes with the reasonable substantial enjoyment of a property owner. He said that motorcycles in the area have been substantial and the noise level is such that it can be heard with the windows closed. He has a petition signed by 40 people whose lives have been affected by the noise, and therefore, requests enforcement of the noise regulation. He commented that the EPA has also been contacted as the watershed in the area has been negatively affected. Joe and Tiffany Sullivan, the owners of the Clarks Lane Parcel, commented that the motorbikes are ridden by their children and are no louder than a weed trimmer. They also acknowledged inspections by Township consultants who found no wrongdoing. Greg Wells commented that the motorbikes travel the public roads and the loud exhaust systems on the motorbikes overpower the sounds of nature. He commented that the residents enjoyed a tranquil community for years and that the Sullivans are unapproachable to mediate the concern. Wells added that a spring in the area has been contaminated and the contamination runs into Pocopson Creek endangering aquatic life downstream. Joe Sullivan commented that the spring is located on his property and the PA Fish and Game Officials are welcome to inspect it. Sullivan also noted that the Township Consultants are paid by Sullivan through a professional services agreement signed with the Township. Stumpo commented that the matter will not be resolved this evening. The Board suggested that the Planning Commission be tasked with reviewing the Noise and Nuisance Chapters of the Township Code that might address quality of life issues. McKay noted that he would appreciate the PC recommendations for improving the language to address rights and responsibilities of all parties. Mark Slouf from West Bradford Township commented that he and a number of West Bradford residents have been communicating with the Township regarding concerns on the Trimble's Ford Property. He challenged that if officials visited the site they would have a clear understanding of the magnitude of the land disturbance. Slouf said a site visit will help the Board fully comprehend the level of disturbance of anywhere from 5 to 10 acres of floodplain and wetlands. Board recognized that additional land disturbance may have occurred on the property beyond which was inspected by Chester County Conservation in the fall. Slouf also commented that on any given weekend, there are anywhere from 12 to 15 vehicles parked on the property. Ed Cuinias, an East Bradford Resident, believes there's been a complete displacement of the floodplain. In addition, the sound of gunfire on the property is overwhelming. Stumpo thanked members of the public for bringing this concern to the attention of the Board.

16. **Old Business:** no old business.
17. **Correspondence:** no correspondence submitted.
18. **Treasurer's Warrants:** Stumpo moved, McKay seconded, to approve the Bill Payment Lists for March 24 – April 27, 2020 recommended for payment by the Treasurer; General Fund: 40 bills totaling \$59,849.34; 8 debit card charges totaling \$855.11; Highway Aid: 7 bills totaling \$8,161.94; Historical Committee: 2 bills totaling \$568.65; Township Facilities: 3 bills totaling \$26,751.70; Parks, Rec & Trails: 1 bill for \$1,550.00; Capital Reserve: 1 bill for \$94,084.00; motion unanimously approved.
19. **Approval of Meeting Minutes:** MOTION: Stumpo moved, McKay seconded, to approve the March 23, 2020 Minutes as submitted; motion carried.
20. **Adjournment:** at 8:40 p.m., McKay moved, Stumpo seconded, to adjourn the meeting; motion carried.



Susan Simone, Secretary



Ricki Stumpo, Chairman