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UPPER MOUNT BETHEL TOWNSHIP
BOARD OF SUPERVISORS WORK SESSION AND PUBLIC HEARING
MEETING MINUTES
MONDAY, FEBRUARY 26, 2024 – 7:00 PM

*This meeting was held in person and live streamed through the Upper Mount Bethel Township Facebook page.

I.

Supervisor Bermingham called the meeting to order at 7:00 pm.

The Pledge of Allegiance was recited.

In attendance were Supervisor Bermingham, Supervisor Eckman, Supervisor Friedman, Supervisor Albert, Township Manager Graziano, and Township Solicitor Karasek.

II.

APPROVE THE AGENDA

Supervisor Erler would like to amend the agenda, adding Public Comment before Executive Session, if time allows. **MOTION** by Supervisor Friedman to approve the amended agenda adding public comment before Executive Session, seconded by Supervisor Bermingham. Vote: 5-0.

III.

PUBLIC COMMENT

Fred Clark, Crystal Terr., read his public comment, which will be made part of the official record. Fred commented on the Municipal Authority.

Richard Wilford Hunt, Shady Lane, commented on dissolving the Municipal Authority.

Judy Henckel, Robin Hood Rd., thanked the Supervisors for their consideration of reestablishing the EAC.

Kenneth Brewer, Member of the Bangor Area School Board, commented on the proposed Resolution, Transfer of Liquor License, and his concerns about the kids in the school, due to the proximity of the school.

Mark Mezger, Scenic Ct., commented on the size of the RPL project, traffic, road modifications, water/sewer, cost of infrastructure, no financial plan. Mark has alternate options he will discuss later.

Ron Angle, Million Dollar Hwy., commented on having public comment at the end of the meeting. Ron commented on the struggle that some senior citizens/disabled residents are having with their garbage bills, maybe the BOS should consider giving them a \$100 rebate.

IV. ANNOUNCEMENTS

Supervisor Friedman announced he attended the ZOOM meeting pertaining to the rock wall on I-80, which is going to take three (3) years to complete and \$97 million dollars. The second part of the meeting pertained to the rock fall on Rt. 611, but unfortunately, he was unable to get the link.

Tara Mezzanotte gave an update on both projects. Tara stated that the rock fall project on Rt. 611 is a five (5) year mitigation project. Tara discussed the speed limit through the curves on Rt. 80 and the need to demand for a long-term study.

Supervisor Bermingham announced that starting in March he would like quarterly reports from the committees. Wednesday night, at the Mt. Bethel Fire House, is a community meeting at 7pm. Meetings continue for the emergency shelter project at the Mt. Bethel FH, which is to begin in October.

Manager Graziano gave an update on the Community Park Bathrooms. There is a slight glitch with the electric, a simple fix, 30 amps to 60 amps. We are moving forward with the \$60k grant with the County. Manager Graziano stated that the crew that is doing the Rt. 611 mitigation will be in the neighborhood tomorrow to fill him in on what is going on. And PennDOT will be doing a traffic study.

V. PRESENTATION

Supervisor Bermingham welcomed County Executive Lamont McClure, who came to give a presentation on his ideas for a new ordinance on the LERTA. He is looking for the Township to help him change our LERTA Law in Northampton County by supporting the LERTA replacement bill that he drafted and suggested a partnership going forward. He discussed manufacturing jobs vs warehouse jobs, and the need to emphasize manufacturing jobs. County Executive McClure stated that the replacement bill is to assist buildings that are dilapidated within the area, they also want to ensure that the property owners can request LERTA Tax status for the County. We want to allow the County the opportunity to know what the proposed development is before granting LERTA status. The new ordinance allows the County to know if the proposed property will be developed into warehouse use before granting LERTA tax status. It provides

incentives to developers to build other uses. The new ordinance would clarify the county retains control over its own fiscal affairs. The revised ordinance would ensure dilapidated properties get the assistance needed to develop the site into a use that benefits the County taxpayers financially and improves residents' quality of life by eliminating blight. If the property is not dilapidated, there is no tax break. County Executive McClure stated that he is looking for support from Upper Mount Bethel Township and is also looking for a collaboration. The adoption of the Ordinance is discretionary with each taxing body. Section 4725 and 4726 of the state taxing body statute, which authorizes the adoption of the LERTA Ordinance. One of the things that County Executive McClure stated we can do together is once the Ordinance is adopted, then the taxpayer will get the LERTA designation if it meets the Ordinance criteria. What this means is that the Township could amend the current LERTA Ordinance to give control back to the Township on a parcel-to-parcel basis. The amendment could have the same language as in the County's revised draft Ordinance that will be proposed to the County Council. The County recommends the Township to consider amending the LERTA Ordinance. Supervisor Bermingham stated that this will be on the March 11th BOS meeting for discussion.

VI.

PUBLIC HEARING-Codification of Ordinances

Solicitor Karasek stated that the purpose of this public hearing is to advise the public of what might be specifically happening with respect to a certain project and what that project entails. With respect to the Codification of Ordinances, the Township developed on a path of codifying the Ordinances so that all the Ordinances are placed in one book where all the Ordinances can be found. Solicitor Karasek read the table of contents. Solicitor Karasek stated that all these Ordinances currently exist. There were no further comments. **MOTION** by Supervisor Bermingham to close the Public Hearing, seconded by Supervisor Friedman. Vote: 5-0.

VII.

ACTION ITEMS

1. Ordinance 2024-01 Vacating a Portion of Marshfield Dr.-Solicitor Karasek stated that there was a Public Hearing on this matter, whereas some conditions were made part of the Ordinance. Solicitor Karasek is asking for authorization to advertise the Ordinance. **MOTION** by Supervisor Friedman to authorize Solicitor Karasek to advertise the Ordinance, seconded by Supervisor Albert. Vote: 4-1. Supervisor Erler voted no.
2. Ordinance 2024-02 Code Adoption Ordinance- Solicitor Karasek stated this was briefly discussed in the Public Hearing and is now being presented to be adopted. **MOTION** by Supervisor Friedman to adopt Ordinance 2024-02, seconded by Supervisor Albert. Vote: 5-0.

VIII.

NEW BUSINESS

1. Re-Establish the EAC-Supervisor Friedman stated that they now have five (5) interested members to join the EAC and is now ready for next step to reestablish the EAC. Solicitor Karasek stated that a Resolution will need to be prepared. **MOTION** by Supervisor Friedman to authorize Solicitor Karasek to draft a Resolution to re-establish the EAC, seconded by Supervisor Albert. Vote: 5-0.
2. Teamsters Local 773 Memorandum of Understanding-Manager Graziano stated this was discussed when we hired the two seasonal employees. This already been agreed on between the Township and the Union. This was discussed between Manager Graziano, Supervisor Friedman, and Union Representative, Mark Laubach. **MOTION** by Supervisor Friedman to adopt the Teamsters Local 773 Memorandum of Understanding, seconded by Supervisor Albert. Vote: 5-0.
3. Trees on Rt. 611-Supervisor Bermingham stated that he heard from a number of residents who are concerned about the trees on Rt. 611 and the dangerous conditions some of these trees are in. The trees are along a state route and on a property owners' property. Solicitor Karasek stated that if they are in the right of way, they can be removed. Solicitor Karasek stated that he believes there is an ordinance in place that trees can be removed if they have been determined to be diseased or in a bad way. Solicitor Karasek will take another look at the ordinance. Supervisor Bermingham asked for this to be on the March 11th agenda. Manager Graziano stated that Rt. 611 is a state road and he is not sure what the right of way is on a state road.
4. Eastern Industries Garage Doors-Manager Graziano stated that the garage doors need to be replaced at Eastern Industries. We have secured a \$10,000 grant. Three proposals were received. Stroudsburg Overhead Doors-\$22,100. Hendershot Door Systems-\$28,817 and ABE Doors/Windows-\$22,988. Manager Graziano recommends ABE Doors/Windows and even though they were a little higher, their doors have a higher rating. **MOTION** by Supervisor Friedman to except the proposal from ABE Doors/Windows for \$22,988 (4 doors), seconded by Supervisor Erler. Vote: 5-0.
5. Municipal Authority Legal Update-Supervisor Bermingham stated that he does not have an update.

VIII.

TABLED ITEMS

1. Appoint Alternate Member to Friends of Lake Minsi- Supervisor Friedman stated one letter of interest was received from Eleanor Shelton. **MOTION** by Supervisor Eckman to appoint Eleanor Shelton as the Alternate Member to Friends of Lake Minsi, seconded by Supervisor Albert. Vote: 5-0.
2. Resolution No. 2024-03 NJDOT I80/Rt. 611 Liaison-Supervisor Bermingham stated this Resolution is to memorialize the January 22, 2024, appointment of Ms. Mezzanotte as Upper Mount Bethel Township's Municipal Liaison for the NJDOT I80 and PennDOT Rt. 611 matters. **MOTION** by Supervisor Friedman to adopt Resolution No. 2024-03, seconded by Supervisor Erler. Vote: 5-0.

3. Review Protocol for Employee Firemen Response-Manager Graziano discussed certain language to be included in the Union Contract in referenced to our road crew members who are members of either the Mt. Bethel Township Fire Co or the North Bangor Fire Co. to be permitted to respond to fire calls provided such response will not create an undue interruption in the immediate Township task or job being performed by them at the time and such interruption is determined in the sole discretion of the General Foreman, Asst General Foreman, and/or Manager. Those responding to a fire call will be paid for their normally scheduled hours while serving in that response capacity. Solicitor Karasek stated that most of the verbiage is his words. **MOTION** by Supervisor Friedman to accept the Protocol for Employee Fireman Response, seconded by Supervisor Albert. Vote: 5-0.
4. Resolution No. 2024-04-Transfer of Liquor License-Solicitor Karasek discussed the proposed Resolution. Solicitor Karasek stated this was tabled from the last meeting as Supervisor Eckman still had concerns regarding the proximity of the schools to Penn Jersey. This Resolution is basically saying that they can have the license transferred to this location but then they have to go to the LCB for final approval and final review. Kenneth Brewer commented on the boundary line being less than 300 ft. Attorney Ulrich stated that this ends up in what's called a conditional licensing agreement. The LCB would put restrictions on this. Attorney Ulrich stated that they cannot even move forward with the LCB unless the Board adopts the Resolution. **MOTION** by Supervisor Erler to approve Resolution No. 2024-04, seconded by Supervisor Albert. Vote: 1-4. Motion fails. **MOTION** by Supervisor Friedman to deny Resolution No. 2024-04, seconded by Supervisor Eckman. Vote: 4-1.
5. Appoint EDC Liaison-Supervisor Bermingham stated that Supervisor Erler has stated that he is interested in serving as the Economic Development Committee (EDC) as their Liaison. **MOTION** by Supervisor Bermingham to appoint Supervisor Erler as the EDC Liaison, seconded by Supervisor Friedman. Vote: 4-0-1. Supervisor Erler abstained.

IX. PUBLIC COMMENT

Mark Mezger stated that he would like to make a presentation on his thoughts for development, i.e. food and beverage. Supervisor Bermingham stated that we will take a look at the agenda for March 11th.

Judy Henckel stated that she is looking forward to getting the EAC up and running. Judy commented on local businesses not getting any tax breaks and LERTA.

Ron Angle commented on the Open Meeting Law and the discussion that took place in Executive Session on the appointment of the new Supervisor, which should have been done in public. This was not a personnel matter.

Supervisor Erler stated that he would like to make a motion to amend our LERTA

Ordinance, to include exemptions on a case-by-case basis. Solicitor Karasek stated that Supervisor Erler certainly has a right to make that motion, however, since it was not on the agenda, he does not recommend entertaining that motion.

Marty Pinter, Lindsey Lane, commented on the LERTA presentation and recommends having the Solicitor look this because this could be construed as contract zoning and/or is borderline quid pro quo, which is highly illegal in government.

Recess to Executive Session at 9:00 pm to discuss legal matters.

**X.
EXECUTIVE SESSION**

The meeting reconvened at 9:30 pm.

Supervisor Bermingham stated that legal matters were discussed in Executive Session and at this time, no action will be taken.

**XI.
ADJOURNMENT**

MOTION by Supervisor Friedman to adjourn the meeting at 9:31 pm, seconded by Supervisor Albert. Vote: 5-0.

Respectfully Submitted by Cindy Beck-Recording Secretary

Good afternoon, Fred Clark, Crystal Terrace, Upper Mount Bethel.

Today I would like to discuss the Municipal Authority.

Upper Mount Bethel's Act 537 plan is obsolete, as an updated plan has not been approved by the PADEP since the 1990s. Environmental standards have changed significantly over the third of a century since the plan was approved and how the Municipal Authority would fit within an updated plan is **unprovable**. For this reason alone, the formation of this Authority was **premature and its merits questionable**. Furthermore, using the term "**Municipal Authority**" for an entity that has one client begs the question "*Why isn't this a private authority as it's only client is industrial?*" I suspect that it was created as a "Municipal Authority" **primarily** for its authority to apply the "essential use" clause to **seize and then convert** hundreds of acres of residentially zoned property into **industrial use fields** for 400,000 gallons of industrial wastewater per day that could have been properly disposed of on the I2 property of the RPL site. I hope I'm wrong, but misuse of this authority to undermine the protections provided by zoning laws to benefit a single enterprise will be another shining example of government/corporate cronyism at the expense of innocent citizens if I'm right.

Despite reservations about the Municipal Authority, the obvious way to minimize potential health, environmental, and negative financial impacts on town residents is to have the Municipal Authority **apply the "essential use" clause to whatever acreage is needed from the undeveloped RPL I2 footprint for the drip irrigation fields.**

The benefits are:

- It would be a proper use of the "essential use" clause as the party impaired by its use receives an equal and opposite benefit.
- It keeps industrial waste on already industrially zoned land that is currently undeveloped and available and maintains the developer's original claim that only 2% of the town's land will be affected by the development.
- Because buildings will have to be eliminated or downsized to make room for drip irrigation fields there may be less industrial waste to process and, hence, less risk to aquifers and watersheds.
- This approach will return the water used by the RPL development to the same aquifer and watershed it came from and reduce the risk of polluting or disturbing other aquifers or watersheds.
- Applying the "essential use" clause to procure enough RPL I2 property to solve the town's Act 537 problem would validate the concept that this is properly identified as a **Municipal Authority** as it would benefit the municipality.
- Properties in residential neighborhoods will not suffer from the devaluation and health risks that could occur if they are in proximity to industrial wastewater fields.
- It reduces the risk that the Municipal Authority will have to use eminent domain powers on town residents **that have no desire to sell their land.**

Thank you for the opportunity to speak.

