

**BENSALEM TOWNSHIP COUNCIL
MEETING MINUTES**

**Monday
September 27th, 2022**

COUNCIL MEMBERS PRESENT:

Joseph Knowles, Council President
Edward Kisselback, Council Vice President
Joseph Pilieri, Council Secretary
Michelle Benitez, Council Member
Stacey Champion, Council Member

SUPPORTING STAFF PRESENT:

Mayor Joseph DiGirolamo
Debora McBreen, Council Clerk/Recording Secretary
Quinton Nearon, Senior Municipal Inspection Manager
Joseph Pizzo, Township Solicitor
Phil Wursta, Township Engineer/Traffic Engineer

PLEASE NOTE:

The minutes are not verbatim but rather a synopsis of what transpired during the meeting, and while I do my best to attribute remarks and questions to the correct individual, there may be mistakes or omissions because of the “back and forth” dialogue and the lack of the use of their microphone.

1. PLEDGE OF ALLEGIANCE:

Council President Knowles opened the meeting with a moment of silence and/or prayer which was followed by the Pledge of Allegiance.

ACKNOWLEDGEMENT OF A HEROIC ACTION:

Council President Knowles indicated, Veysal Badalov, Zhafar Badalov and Khamida Badalova came to the rescue of a family member during a family picnic.

Director McVey indicated, this evening we are recognizing the Badalov family for their heroic efforts to save their two-year-old family member, Dennis, after accidentally falling into the family swimming pool. The Badalov family was enjoying a family gathering at their pool on Bristol Road in Bensalem on the evening of August 6th; suddenly, Khamida, Dennis’s Aunt, realized one of the children who was playing by a nearby table was missing. She immediately got up and walked around the pool and saw Dennis submerged under the water. Khamida shouted for help immediately and Veysal, Dennis’s Uncle, jumped into the water, swam to the bottom, and retrieved Dennis. Veysal brought him to the top and immediately handed Dennis to his father.

Khamida and Zhafar immediately started CPR until the child regained consciousness. Director McVey indicated the child was underwater for about 2 minutes, according to the video. EMS arrived on scene and transported Dennis to the hospital. Thankfully, Dennis made a full recovery and if not for the swift action of these 3 family members, Khamida, Veysal and Zhafar, it might have been a very tragic outcome.

The Mayor indicated this is an incredible story with a tremendous outcome. The Mayor distributed the certificates to the family members and thanked them for their heroic actions.

2. **PUBLIC COMMENT:**

Council President Knowles indicated the Public Comment will be heard at the time the agenda item is heard. Seeing no one come forward, the first of two Public Comments was closed.

3. **APPROVAL OF COUNCIL MINUTES:**

Councilwoman Benitez motioned to approve the Council Minutes dated August 22nd, 2022, **Councilwoman Champion** seconded and the motion carried 5-0.

Council President Knowles asked Solicitor Pizzo if there were any changes to the agenda this evening.

Solicitor Pizzo indicated Agenda Item #13, **Consideration of a Preliminary and Final Minor Subdivision** for Chase Bank. The Township received, earlier today, correspondence from counsel representing the applicant advising that one of the neighboring property owners, who had been notified of the hearing, could not attend this evening. The applicant, upon request of the adjoining property owner, asked that the matter be tabled so that they can appear. The applicant is agreeable to that and the matter be tabled to a date certain of the Council meeting of October 17th, 2022.

Council Vice President Kisselback motioned to table Agenda Item #13 **Consideration of a Preliminary and Final Minor Subdivision for Chase Bank**, until a date certain of October 17th, 2022, **Councilwoman Benitez** seconded, and the motion carried 5-0.

Solicitor Pizzo indicated Agenda Item #14, **Consideration of a Preliminary Land Development for Johnson Development Associates, Inc.**, which had been previously tabled to this evenings agenda, the Township received correspondence from the attorney representing the applicant asking that the matter be tabled from this evening agenda in order to allow for the applicant to continue to work to address some of the ongoing concerns regarding the application and are requesting that the application be tabled to a date certain of October 17th, 2022. The applicant has also granted the Township an Extension of Time for all of the applicable deadlines under the Municipalities Planning Code through and including October 31st, 2022.

Councilwoman Champion motioned to table Agenda item #14, **Consideration of a Preliminary Land Development for Johnson Development Associates, Inc.**, **Councilwoman Benitez** seconded and the motion carried 5-0.

Solicitor Pizzo asked to add Agenda Item 8A, which is a presentation from the Township Finance Manager as to the Townships MMO (Minimum Municipal Obligation) for all of the Townships

various Pension Plans for Fiscal Year/Calendar Year 2023. This is a presentation that the Finance Manager is required to make annually, and needs to be done before the end of September. This does not require any official action by Council, but it does need to be read into the record what the Townships Pension obligations are projected to be for 2023.

Council Vice President Kisselback motioned to amend the agenda to add item 8A, Minimum Municipal Obligation, **Councilwoman Champion** seconded and the motion carried 5-0.

4. **CONSIDERATION AND PUBLIC HEARING OF AN ORDINANCE AMENDING THE TOWNSHIP ZONING ORDINANCE PART II, CHAPTER 232 OF THE TOWNSHIP CODE, TO AMEND ARTICLE V, RESIDENTIAL DISTRICT, DIVISION 12, R-55 RIVERFRONT REVITALIZATION DISTRICT, SECTIONS 232-271, USE REGULATIONS:**

Solicitor Pizzo indicated this is the continuation of the Public Hearing that began at the Council Meeting of August 22nd, 2022. At that time, Council began the Public Hearing on the proposed ordinance that is a proposed text amendment to the Townships R-55 Provisions, the Riverfront Revitalization District within the Township's Zoning Ordinance. That Public Hearing lasted for a few hours on the Council meeting of August 22nd. It was then, on a motion by Council, to table the item until this evening to afford the Administration the opportunity to reflect upon and act upon some of the testimony that was received that evening. The Administration has done that and item 4A, on this evening's agenda, which is authorization to advertise an ordinance creating a new Zoning District. The R-55A Riverfront District is an outgrowth of what was heard during the first part of the hearing on the R-55 changes.

Procedurally, what has happened since the August 22nd hearing, the R-55 Ordinance, which is in front of Council this evening, was re-advertised so that everyone would know that the hearing did not conclude at the last meeting and is still continuing this evening.

The R-55A Ordinance was also drafted, and circulated to all of Council. The Administration is asking Council this evening to authorize the advertisement of that Ordinance and be considered and potentially adopted at a future Council meeting.

What the R-55 Ordinance would do in response to a number of comments that were heard on the night of August 22nd, is that it would take all the R-55A Ordinance, and would put back all of the Light Industrial uses that are currently in the R-55 Ordinance that are proposed to come out of R-55, they would be put back in the R-55A; then a number of properties in the Riverfront area would be rezoned to R-55A. Those properties are proposed to be any of the R-55 that is North of Street Road, which is anything on the Neshaminy State Park side of State Road would be rezoned to R-55A. Those properties would ultimately have the exact same uses they have today, once the R-55A is adopted and those properties are rezoned R-55A. Everything that is below Imperial Court and to the west side of State Road, the train track side of State Road, those properties would also be rezoned to R-55A.

If you are below, on the city side of Imperial Court and on the train track side of State Road, those properties would continue to have the uses they currently have today. From Street Road to Imperial Court, that section and on the train track side of State Road. Renaissance Boulevard has been proposed and the condemnations for Renaissance Boulevard were approved at the last Council meeting. Everything that would be west of Renaissance Boulevard, the train track side

of Renaissance Boulevard, from Street Road all the way down to Imperial Court, all of that would also become R-55A. Anything that is down concurrently this evening in any of those properties, they will be able to do once the Township is done the process of creating the R-55A District.

The only thing that would remain R-55 is everything that is on the river side of State Road and everything that is between State Road and Renaissance Boulevard, between Street Road and Imperial Court, that rectangle, Street Road, Renaissance Boulevard, Imperial Court and State Road, that rectangle and the area the Solicitor was pointing to on the map he was holding up, will stay R-55. Those will have the text changes, those will no longer have the Light Industrial uses.

As part of the conversation on the R-55 text amendment, if anyone has questions about the R-55A, Council can certainly deal with that during that hearing.

If Council authorizes the advertising of R-55A this evening, it has to go to the Planning Commission, then to the County Planning Commission. Council can get input from the property owners. After Council adopts and creates this new R-55A District, the Township will then have to rezone the area.

Council President Knowles indicated if Council votes in favor of the R-55 District, everything is getting changed this evening. The properties that were referred to as the proposed R-55A, will have a two-month period before they change to R-55A.

Solicitor Pizzo indicated, because of the sequence of the way that things are happening, R-55 the text amendment of the existing district will happen and then the Township will create the new District, R-55A; and put everybody, or at least a number of the businesses found in that area and the properties in that area, back into R-55A. The net effect is by 60 to 90 days from this evening, everybody who is north of Street Road, south of Imperial Court and between Renaissance Boulevard and the railroad tracks, would have all of their Light Industrial uses back. Those would be all by-right uses again. In the meantime, they still would be able to do exactly what they are doing, but it is going to be a process to put all of those uses back.

The owners of the property on Marwin Avenue, for instance, expressed concern during the meeting. If Council moves forward with the R-55 and the R-55A that is being proposed this evening, all of the uses they have today, they will have again. The Township heard from a number of people from Samuel Drive, if the Township goes through with the R-55 and the R-55A, all of the uses they have today, they will have again. The Township heard from industrial property owners near New York Avenue and in those industrial pockets in that area, everything they have today, they will have again. That is the net effect of what the Administration is proposing.

Council Secretary Pilieri asked the Solicitor why they were doing this in two phases.

Solicitor Pizzo indicated it is the recommendation, as their Attorney, that in order to best effectuate the process Council has undertaken, through Councils authorization of the advertisement of the R-55 ordinance back in July; the best way to effectuate what the purposes of that ordinance were, and are, is for Council to adopt that ordinance this evening. Then, in response to what Council heard during this process, respond to that by way of creating the new R-55A District. Rezoning properties that are essentially west of Renaissance Boulevard and outside of the center concentration of the R-55 Riverfront area, restoring them to some of the uses that are proposed to be eliminated from the R-55 District. That is the reason it is being

proposed to Council to do it in this fashion, so as not to jeopardize, minimize, compromise the Townships position, and the Townships ability to effectuate the changes that were authorized by Council's advertisement of the ordinance back in July.

Council Secretary Pilieri asked if there is a reason why it is being done this way, instead of one time and doing it correct the first time; instead of taking it, approving it, then coming back again to approve another ordinance.

Solicitor Pizzo stated he apologies if his prior answer wasn't specific enough and if Council would like him to get into the legal rationale behind what is being recommended. His suggestion to Council would be that they adjourn for a brief Executive Session and the Solicitor can share with Council what the legal beliefs and theories are, and in terms of what the Township is doing and how best to effectuate it. But the reason they are doing it as, in the process that they are doing it is, the R-55A was not part of the thought process when the R-55 text amendments were first brought forward for action by this Council. The overwhelming commentary from the property owners, which all of Council heard, led to some discussion as promised; This idea of how to best address the concerns of a number of property owners, the Samuel Drive property owners being chief among them. When R-55 was put into place initially, 17 years ago, the hope and expectation was that area of the Riverfront would undergo the same transformation that has been seen taken place in other areas, and it hasn't. The likelihood of that particular area is going to undergo the transition any time in the near future, the Administration was persuaded that it was a valid argument. By creating R-55A the same tools are still available to property owners who might want to purchase a property or properties on Samuel Drive, and redevelop them in the fashion the Township is hopeful will occur throughout the Riverfront District. In the meantime, as to those properties, they will still continue with the uses that they were concerned about losing as by-right uses for the foreseeable future, so they will still have the "best of both worlds" which they have had for the last 17 years.

When the Township first created the R-55 District, 17 years ago, the proposal was at that time to eliminate all of those uses from throughout the district. There was also a number of Heavy Industrial uses that were permitted in that District at that time. A process similar to this one occurred, businesses came out and almost all of the heavy industrial uses were eliminated form the R-55 District. The Light Industrial uses remained, the Township heard the business community, the Township responded. So now the Township is whittling away a lit bit more and the Light Industrial will still remain in the fringe areas, if the Township goes the R-55, R-55A plan. The heart of the R-55 District, both on the river side and on the side immediately adjacent to State Road on the west, those areas are going to be under the R-55 without the Light Industrial Zone, if Council votes this evening.

Councilwoman Champion, being new to Council, asked Solicitor Pizzo to explain the process perceptive of the ordinance.

Solicitor Pizzo indicated any time the Township seeks to amend its Zoning Ordinance or its Zoning Map, the process requires a visit, or a review of the proposal by the Township Planning Commission, where there is a public hearing. A review by the County Planning Commission, and their findings are also adopted at a public meeting of the County Planning Commission and those recommendations come to Council typically in the form of a written report or Minutes from the Planning Commission meeting. In the case of the County Planning Commission, for the R-

55, the County Planning Commission issued a report and it was favorable and supportive of what the Township is doing. The same process applies to the R-55A.

Councilwoman Champion asked Solicitor Pizzo what roads would be affected by the ultimate change.

Solicitor Pizzo indicated everything that fronts Street Road to the north, or is otherwise north of Street Road, the Township's recommendations is those properties would be R-55A. 90 days from now those properties will be back to where they are today. All of the properties that front on Samuel Drive will be R-55 90 days from now and would keep all of their Light Industrial uses by right, if Council adopts the ordinance this evening. Everything that fronts on Imperial Court, would remain R-55. Everything below Imperial Court, would be R-55A on the westside of State Road because there are a few properties, Waterside is obviously on the eastside of State Road and that continues down below Imperial Court. There is an R-55 property below Waterside and there is R-55 as far down as Station Avenue on the riverside. Everything on the westside of State Road would become R-55. By staying R-55A they will keep all of the uses they have today.

PUBLIC COMMENT AGENDA ITEM #4:

Council President Knowles asked if there were anyone in the audience who had questions regarding this ordinance or further comments that were not made at the last meeting.

Rich Mooney, Columbus Country Club, asked if it would be possible to get a copy of the map Solicitor Pizzo referred to during his explanation of the zoning.

Solicitor Pizzo indicated the Columbus Country Club is zoned MXD and their zoning is not proposed to change. Solicitor Pizzo supplied a copy of the map to Mr. Mooney.

Howard Weiss, 2944 Samuel Drive, thanked the Administration for listening to their comments regarding the proposed ordinance. Mr. Weiss asked Solicitor Pizzo if there is a procedural issue from now until 90 days.

Councilwoman Benitez asked Solicitor Pizzo what would be the risk.

Solicitor Pizzo indicated there are no absolutes in life on anything. If procedurally things go sideways on R-55A they would have the ability to come to the Township, and if the Township doesn't do it on its own to revisit what was done with R-55; or to figure out a way to account for the fact that there are properties in the riverfront area that the Township wants to continue to have the uses they have today. There are a number of legal ways to get from point A to point B as discussing the merit of the route the Township is currently undertaking.

Once Council authorizes it for advertisement and the ordinance is advertised, it will be available to view Solicitor Pizzo took the liberty to rearrange a few things to make them make more sense in the new district. Everything that is in R-55, in terms of a permitted use, is in R-55A.

The current uses are grandfathered for 90 days. It is not that suddenly, everything goes away. Whatever use they are making for their property for the next 90 days will still be a permitted use in the sense that it is an existing non-conforming use. The property owners still have the right to engage in it and they have the right to expand it. The Township is trying to make as tight a

window as they can. There is a process and the process has to be followed in order for it to be effective.

Councilwoman Benitez requested an Executive Session.

A short recess was taken at this time for an Executive Session to discuss the matter further.

Council President Knowles indicated Solicitor Pizzo will use a pointer and try to be a little bit more explicit of what properties in the future are considered to be changed to R-55A.

Solicitor Pizzo indicated **Quinton Nearon, Senior Municipal Inspection Manager**, is in the process of creating a more detailed map that will identify each and every property and will identify whether any property in question is in the R-55 or the R-55A. Solicitor Pizzo proceeded to identify each specific property as explained in his previous statement, and as displayed on the overhead projector. (Refer to YouTube at point 1:08:00 for detailed map and explanation)

Brian McDonough, Venture One Real Estate, property owner of 2901 Samuel Drive, thanked the Mayor and Council for meeting with them and considering their request. From a business perspective it is really hard for them to operate in the next 90 days as a business with a zoning that is now changing. They operate an industrial facility and doesn't believe he will have the right zoning for 90 days.

Solicitor Pizzo indicated in the context of a lease situation, ultimately the ability to use or not use the building for whatever use, is dependent upon the zoning officer issuing a use and occupancy permit for the building. Depending on the uses Mr. McDonough has, if it is currently a use that is going to be grandfathered, should Council adopt this tonight, then the zoning officer is going to issue you a use and occupancy; because it is a continuation of the existing non-conforming use. If it is a use similar in nature to the existing non-conforming use, the zoning officer is going to issue you a zoning cert and issue you a U and O because it is an extension and continuation of the existing non-conforming use. If Mr. McDonough is going completely off the rails, and going to a different use which is allowed today, and would not be allowed tomorrow, but would be allowed again in 90 days. Then if Council authorizes the advertisement of the Ordinance, under the same theory that is being used in regards to the R-55, the same theory would arguably apply to R-55; and the zoning officer could issue the ability to occupy the building knowing that the Township is in the process of putting the use back. Making it a Buy Right use, the Township can work with Mr. McDonough to make that happen.

Seeing no one else come forward, the Public Comment was closed.

Council Vice President Kisselback motioned to adopt the ordinance as presented, **Councilwoman Benitez** seconded and the motion carried 4-1.

- 4A. AUTHORIZATION TO ADVERTISE AN ORDINANCE AMENDING CHAPTER 232 “ZONING” OF THE TOWNSHIP CODE AT ARTICLE V. RESIDENTIAL DISTRICTS TO CREATE A NEW DIVISION 12.5, R-55A RIVERFRONT REVITALIZATION DISTRICT, TO ESTABLISH THE VARIOUS PURPOSES, REGULATIONS, STANDARDS AND REQUIREMENTS THEREOF AND THEREFOR, AND TO REPEAL ALL OTHER ORDINANCES OR PORTIONS OF ORDINANCES INCONSISTENT HEREWITH:

Council Vice President Kisselback motioned to approve the advertisement, Councilwoman Benitez seconded, and the motion carried 5-0.

5. CONSIDERATION OF A RESOLUTION FOR THE MUNICIPAL GRANT PROGRAM FOR FUNDING OF THE DEPARTMENT OF PUBLIC SAFETY EMERGENCY APPARATUS FACILITY:
6. CONSIDERATION FOR A RESOLUTION FOR THE MUNICIPAL GRANT PROGRAM FOR THE FUNDING OF THE INTEGRATION OF POLICE RECORD MANAGEMENT SYSTEM (RMS) THROUGHOUT BUCKS COUNTY:
7. CONSIDERATION OF A RESOLUTION FOR THE MUNICIPAL GRANT PROGRAM FOR THE FUNDING OF THE FIRE EQUIPMENT FOR 6 VOLUNTEER FIRE COMPANIES AND EMS:
8. CONSIDERATION OF A RESOLUTION FOR AN INTERGOVERNMENTAL AGREEMENT TO PARTICIPATE IN THE GRANT APPLICATION FOR TOWNS AGAIST GRAFFITI:

Solicitor Pizzo indicated agenda items 5, 6, 7, and 8, which are all tied into the Municipal Grant Program, Council can have separate votes, but Council can have a singular discussion.

Mr. John Chaykowski, Township Finance Manager, indicated the Township is looking to submit a grant for one million dollars for the funding of the Department of Safety Emergency Apparatus Facility. This building would be built over by the Public Works facility, it would be a pre-engineered building with a garage. What the facility will house is a different Public Safety apparatus that is currently either being housed outdoors, or existing Public Works garage bays, where the Township is trying to free-up space for them as well.

Council Secretary Pilieri motioned to approve, Councilwoman Champion seconded and the motion carried 5-0.

Mr. Chaykowski explained agenda item 6 is a grant for multi-police departments and indicated there are 39 police departments in Bucks County. The system allows all of the police departments to communicate with each other via CODY, which is the police software. This service pays for the annual service agreement for the 39 police departments as well as cloud space or any type of charges that would be required. The grant request is for \$115,600.00 being submitted to the RDA.

Councilwoman Benitez motioned to approve, **Council Secretary Pilieri** seconded and the motion carried 5-0.

Mr. Chaykowski explained agenda item 7 is regarding the 6 Volunteer Fire Companies and a EMS grant for each of the companies for capital projects, or to upgrade their facilities and also to be used for their radios.

Council Secretary Pilieri motioned to approve, **Councilwoman Champion** seconded and the motion carried 5-0.

Mr. Chaykowski explained agenda item 8, this is a Resolution that is a multi-municipality participation with T.A.G. which all of the municipalities pay an annual membership fee. Bensalem is the hosting agency which is applying for the grant in the amount of \$175,000.00.

Councilwoman Champion motioned to approve, **Councilwoman Benitez** seconded and the motion carried 5-0.

8A. PRESENTATION OF THE 2023 MINIMUM MUNICIPAL OBLIGATION (MMO) TO THE TOWNSHIP PENSION FUNDS.

Every year at this time it is required that Mr. Chaykowski reads into the Township record information in compliance with Pennsylvania Act 205.

The first requires no action by Council. The 2022 Minimum Municipal Obligation (MMO) financial requirements for the Police, Non-Uniform and Non-Uniform Defined Contributions pension funds have been prepared. They are as follows:

Police Defined Benefit Pension	\$4,252,877
Non-Uniformed Defined Benefit Pension	\$ 359,859
Non-Uniformed Defined Contribution Pension	\$ 201,200

9. CONSIDERATION OF A REDUCTION OF PERMIT FEES FOR HOLY GHOST PREPARATORY SCHOOL MOTHER’S GUILD LOCATED AT 2429 BRISTOL PIKE, BENSALEM, PA:

Council Vice President Kisselback motioned to approve as presented, **Councilwoman Champion** seconded and the motion carried 5-0.

10. CONSIDERATION OF ESCROW RELEASES FOR:

A. Developers Request:	Bensalem MZL – Release #4
Location:	1837 Street Road
Tax Parcel:	2-43-305 & 2-43-305-1
Amount of Release:	\$32,785.00

Township Engineer Wursta indicated they are requesting an Escrow Release in the amount of \$32,785.00, subject to a release by an audit from the Township Finance Department.

Councilwoman Champion motioned to approve, **Councilwoman Benitez** seconded and the motion carried 5-0.

B. Developers Request: **Galloway Reserve A.K.A. Victory Square – Release #3**
Location: 2670 Galloway Road
Tax Parcel: 2-33-7
Amount of Release: **\$60,418.43**

Township Engineer Wursta indicated they are requesting an Escrow Release in the amount of \$60,418.43, subject to a release by an audit from the Township Finance Department.

Councilwoman Champion motioned to approve, **Councilwoman Benitez** seconded and the motion carried 5-0.

C. Developers Request: **Sperduto L/D – Release #3**
Location: 901 Tennis Avenue
Tax Parcel: 2-29-300 & 2-29-301
Amount of Release: **\$39,743.40**

Township Engineer Wursta indicated they are requesting an Escrow Release in the amount of \$39,743.40, subject to a release by an audit from the Township Finance Department.

Councilwoman Champion motioned to approve, **Council Secretary Pilieri** seconded and the motion carried 5-0.

D. Developers Request: **Samarpan Hindu Temple – Release #9**
Location: 2746 Mechanicsville Road
Tax Parcel: 2-36-8
Amount of Release: **\$115,336.30**

Township Engineer Wursta indicated they are requesting an Escrow Release in the amount of \$115,336.30, subject to a release by an audit from the Township Finance Department.

Councilwoman Benitez motioned to approve, **Councilwoman Champion** seconded and the motion carried 5-0.

11. CONSIDERATION OF A REQUEST FOR MODIFICATION OF CONDITION OF SUBDIVISION APPROVAL 4020 MECHANICSVILLE ROAD:

Matt McHugh on behalf of the applicant, 4020 Mechanicsville LLC, Mr. McHugh was before Council sometime in the Spring for a rezoning and 7 lot subdivision approval for this property. Council ultimately approved both the rezoning and the subdivision. An adjacent property owner came forward and addressed Council about an alleged easement that she believed she had running through the property.

One of the conditions that Council imposed is that they would not essentially record the subdivision plan until the easement litigation played out in the Bucks County Court of Common Pleas. At the time they agreed to that condition they had anticipated that the easement litigation would have been resolved. It is still currently pending in the Bucks County Court of Common Pleas, it is being held up by the backlog in the courts primarily caused by COVID and other things. As a result, the project is missing the ever-volatile housing market. They are seeking relief solely from that condition. The reason they are seeking relief is so that they can go forward and record the plans and construct the single-family dwellings that are on the lots that are not impacted by the alleged easement.

They have identified, in purple hatching, where the easement would be if Miss Roman were to be successful in the court litigation. You can see on the exhibit it would only impact Lots 2 and 3. What they are seeking is modification of the condition to allow them to record the plan, create the lots and then only construct lots, 1, 4, 5, 6 and 7, leaving lots 2 and 3 free from development until the court resolves the easement litigation. This would allow the applicant to move forward with the project and get those lots constructed that are not subject to the easement. The property has been rezoned, it has been subdivided by Council, and all the other conditions of approval are achievable and attainable. Even if Miss Roman were to be successful in court, they would not preclude the development of those 5 lots. If Miss Roman is successful, they will supply the easement for her and will have to modify the plan for those 2 lots in some fashion, and get Council approval. If not, they still have the 7-lot subdivision.

This is a mutual benefit to everybody and preserves the rights of the litigants over those 2 lots, but allows a developer to proceed, and not the housing market within the increasing rates and things of that nature. and get those 5 lots that are unencumbered by the easement litigation developed.

There are no public improvements that would be associated with this; and if there are any minor grading or utilities, they can all be located outside of the easement area. This would be part of the record plan the Township Engineer would review, before it got recorded to ensure that there was no conflict between the easement area and public improvements.

Councilwoman Benítez asked, if the courts say they are in Miss Roman's favor, is that going to cause any issue with the applicant further developing lots 2 and 3, based on already positioning lots 1 and 4?

Solicitor McHugh stated he did not think lots 1 and 4 impact this at all. The applicant would have to either consolidate lots 2 and 3 into one lot in order to make that achievable. If that were to occur, the applicant would have to come back to Council and get an approval of the configuration of those 2 lots.

Solicitor Pizzo asked Mr. McHugh if he sent out notices to the adjacent property owners.

Mr. McHugh stated they were sent by Federal Express and a copy of the proof of service was provided electronically to the Township.

Solicitor Pizzo indicated, following Council's approval of the rezoning and the approval of the Land Development Plan back in March of 2022, the Solicitor wanted Council to be aware that the interested parties would have had a period 30 days to file an appeal of Council's decision;

granting that approval to the Court of Common Pleas. No such appeals were taken from either the rezoning of the property or Council's approval of the Land Development plan at that time. The property owner who had the dispute had the ability to challenge Council's approval of the plan in court, and no such appeal was taken.

PUBLIC COMMENT:

Janet Roman, distributed a copy of the letter regarding 4020 Mechanicsville Road, from her lawyer, and proceeded to read the whole letter to Council.

Solicitor McHugh indicated Miss Roman's concern about lot 1 is reasonable, and to that extent, they would agree that they would construct or develop lot 1 as the last lot to provide ample time for the courts to resolve the easement litigation.

Seeing no one else come forward, the Public Comment was closed.

Council Vice President Kisselback motioned to approve per the September 21st, 2022 letter from Solicitor McHugh, **Councilwoman Champion** seconded and the motion carried 5-0.

12. CONSIDERATION OF A REQUEST FOR LOADING ZONE RELOCATION FOR SAMARPAN HINDU TEMPLE LOCATED AT 2746 MECHANICSVILLE ROAD.:

Quinton Nearon, Senior Municipal Inspection Manager, indicated the original plans had a grass paver in the front of the building, toward the back end of the building for a loading zone. The owner has requested not to have that installed due to costs. The biggest issue was that the building's access for the kitchens and such is in the back, on the other side of the building. Where the loading zone was located was not a feasible location to actually doing any kind of loading or unloading. The one other issue that was brought up was that the project was actually at the maximum pervious coverage, and the owner did not want to do additional impervious coverage on the property just to make this work. The Township reached out to the Fire Marshal's office and indicated they do not have a problem with them doing the unloading, as long as there is no parking along that area, and all vehicles are moved out of the fire lane after they load or unload.

Council Secretary Pilieri motioned to approve, **Councilwoman Champion** seconded and the motion carried 5-0.

13. CONSIDERATION OF A PRELIMINARY AND FINAL MINOR SUBDIVISION FOR:

Applicant:	Chase Bank
Location:	1729 Street Road
Proposed Use:	Commercial
Zoning Classification:	G-C Commercial
Tax Parcel:	2-43-305

This matter was tabled by a prior motion.

14. **CONSIDERATION OF A PRELIMINARY LAND DEVELOPMENT FOR:**

Applicant: Johnson Development Associates, Inc.
Location: 2600 State Road
Proposed Use: Warehouse/Distribution
Zoning Classification: R-55 - Riverfront Revitalization District
Tax Parcel: 2-65-21

This matter was tabled by a prior motion.

15. **PUBLIC COMMENT:**

Joe Connell, 568 Bristol Pike, asked for a date as to when the dirt pile will be removed from his property.

Tony Williams, 3963 Bainbridge Court, complained about the deplorable conditions of Street road from I-95 to State Road, and asked if the Township could somehow speak with PennDOT to clear this matter up.

The Mayor indicated he has gone to our Senator and our State Representative regarding this matter. I-95 and Street Road has been a disaster for years and we are trying to work with PennDOT. The Mayor had a slip ramp that he designed 27 years ago and can't get anything done.

Township Engineer Wursta indicated he will reach out to PennDOT regarding this. One of the issues PennDOT is dealing with, which affects everybody, is these small paving operations. PennDOT does not have the manpower, or the equipment, they have to bid everything out. PennDOT's maintenance forces is down 45%.

Seeing no one else come forward, the second Public Comment portion was closed.

16. **OTHER BUSINESS:**

The Mayor indicated the Fall Festival is threatened by the weather forecast for this weekend. The Mayor wished his Jewish friends a Happy Rosh Hashanah, and, October 4th is Yom Kippur. The Township will be closed on Monday, October 10th for Columbus Day.

Solicitor Pizzo echoed the Mayor's sentiments to our friends in the Jewish community.

Councilwoman Benítez wished everyone Happy Holidays, was thankful the Badalov family's outcome turned out to be a happy one. There is an organization here in Bensalem called "CPR Saving Lives" where they teach basic skills.

Councilwoman Champion wished all of the Jewish community Happy Holidays. September is Childhood Cancer Awareness month. October is "Go Pink" for Breast Cancer Awareness month.

Council Vice President Kisselback wished all Jewish community Happy Holidays. September is Childhood Cancer Awareness month.

Council President Knowles wished everyone in the Jewish Community Happy Holidays. His prayers are with the people in Florida who are about to get hit with a very strong hurricane.

17. ADJOURNMENT:

There being no other business to discuss, the meeting was adjourned.

The Bensalem Township Council Meeting of September 27th, 2022 can be viewed in its entirety at the following websites:

www.bensalempa.gov

or

www.youtube.com

Respectfully Submitted,

**Debora F. McBreen
Recording Secretary**