BENSALEM TOWNSHIP COUNCIL MEETING MINUTES

Monday June 22nd, 2020

Zoom – Virtual Public Meeting

VIRTUAL COUNCIL MEMBERS PRESENT:

Edward Kisselback, Council President Joseph Pilieri, Council Vice President Joseph Knowles, Council Secretary Jesse Sloane, Council Member Ed Tokmajian, Council Member

OTHER VIRTUAL PRESENCE BY:

Mayor Joseph DiGirolamo Joseph Pizzo, Township Solicitor Russell Benner, Township Engineer Debora McBreen, Council Clerk/Recording Secretary

PLEASE NOTE:

Due to the COVID-19 pandemic and all of the orders and declarations from the Federal, State, and County governments, the Bensalem Township Council held its' regular monthly meeting as a virtual public meeting utilizing the Zoom Meetings platform.

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 the microphone

1. PLEDGE OF ALLEGIANCE:

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

Council President Kisselback asked **Solicitor Pizzo** if there were any deletions to the agenda. **Solicitor Pizzo** indicated there were no deletions.

2. **PUBLIC COMMENT:**

publiccomments@bensalempa.gov

3. APPROVAL OF COUNCIL MINUTES:

Council Member Sloane indicated he had no corrections to the Minutes but would like an update on the questions presented during the Other Business agenda item pertaining to the Minutes of May 26th, 2020. **Council President Kisselback** indicated an update would be presented at that time.

Council Vice President Pilieri motioned to approve, Council Member Tokmajian seconded and the motion carried 5-0.

4. CONSIDERATION AND PUBLIC HEARING ON COMMUNITY DEVELOPMENT COVID 19 FUNDS:

Solicitor Pizzo indicated this list is a list of CDBG (Community Development Block Program) monies that are specifically designated and originate out of the C.A.R.E.S. (Coronavirus Aid, Relief, and Economic Security) Program for the monies allotted by Congress in response to the COVID crisis. The C.A.R.E.S. Program has allotted certain CDGB monies that are eligible for and to be used specifically by eligible entities within the Township specifically to address COVID related matters. There are four proposed projected use of funds which were explained in detail by **Solicitor Pizzo** and they are as follows:

Bensalem Senior Center

\$28,160.00

Client meal distribution and good preparation staffing; resident life associate and nurse education

Bensalem Food Banks

\$75,000.00

Food distribution to low/moderate income households in need of food

Bensalem Homeless Prevention

\$50,000.00

Rental Assistance administered by the County Board of Social Services

Emergency Shelter Operation

\$50,000.00

Staffing and operation expenses for the homeless shelter

Council President Kisselback asked Solicitor Pizzo if he would elaborate on there being no Administrative costs. Solicitor Pizzo indicated most of these programs are being administered through the County, therefore, the program does not provide for the payment of Administrative fees and the Township Administrative fees are relatively small in this case because of the County being the lead agency on all of these projects. The Mayor reiterated Solicitor Pizzo's comments on how this program is run through the County and the Township is only here to distribute those allotted funds.

Council Member Tokmajian asked Solicitor Pizzo if the Township is expected to get additional funds for the CDBG, or is this going to replace it essentially. Solicitor Pizzo

indicated, and as the Mayor just stated, at least for this moment, it is a onetime allotment of monies that is appropriated and designated through the Federal government through the C.A.R.E.S. Program. Council Member Tokmajian asked who manages the Bensalem Senior Center, the Bensalem Food Banks and the Bensalem Homeless Prevention at the Township level. The Mayor indicated the Director of Administration manages those funds. Council Member Tokmajian asked if there was a form online that the residents can download. The Mayor indicated Administration will not be dealing with individuals, it will all be handled thorough the four listed programs.

Council Member Tokmajian motioned to approve as presented, **Council Vice President Pilieri** seconded and the motion carried 5-0.

5. CONSIDERATION AND PUBLIC HEARING ON AN ORDINANCE AMENDING CHAPTER 225 VEHICLES AND TRAFFIC ARTICLE II TRAFFIC SIGNS AT SECTION 225-4. INDICATING THE ADDED LANGUAGE: NO TRUCKS – RESIDENTIAL DELIVERY ONLY, ESSINGTON WAY – AT ENTRANCE FROM RICHLIEU ROAD AND DEBRA DRIVE – AT ENTRANCE FROM RICHLIEU ROAD:

Council Member Sloane indicated that this seemed to be an ongoing problem for a number of years and was curious as to why, now, it is coming in front of the Township for recommendation. The Mayor explained as soon as this was brought to his attention he investigated the area and witnessed trucks using Essington Way and Debra Drive to get to Street Road. Solicitor Pizzo added two exacerbating factors are a greater proliferation of GPS usage, which is unfortunately designating these roads as a way to get from US 1 to Street Road and secondly, the interchange work that started at the Turnpike US 1 Interchange and the Township found more and more cars are trying to use that route to bypass the work that is going on. It's been an issue, but not quite the issue it has now become since the Route 1 work began. Council Member Sloane asked if in addition to the signs will there be increased enforcement so the motorist will understand there is a new law in that area. The Mayor indicated there would be enforcement.

Council Member Sloane motioned to approve as presented, **Council Member Tokmajian** seconded and the motion carried 5-0.

There was no public comment emails regarding the Ordinance

6. Consideration of a **Final Amended Land Development Plan:**

Applicant: Echo Bensalem, LLC

Location: 2721 Street Road – Giant Shopping Center

Proposed Use: Four Gasoline Dispensing Pumps **Zoning Classification:** GC -1 – General Commercial 2-37-60, 60-1, 60-2 and 60-3

Solictor Pizzo admitted into the Zoom Meeting **Mr. Greg Adelman, Esquire** from Kaplan Stewart for the applicant. **Solicitor Pizzo** asked **Mr. Adelman** if had witnesses that should be listed into meeting as well. **Mr. Adelman** responded yes and proceeded to introduce **Mr.**

Drew Gorman, Principal of Echo Bensalem LLC, **Mr. Joseph Lackameanya** Representative with Giant, **Brian Meyers**, Project Engineer, **Mr. Tavany**, Traffic Engineer and **Joe Tasone**

Mr. Adelman is before Council requesting the proposed use of a fuel dispensing facility located at 2721 Street Road (Giant Shopping Center). In addition to this requests, and as part of the Land Development, is to construct an interconnect between the two shopping centers along with additional stripping which has been reviewed by **Mr. Benner**, Township Engineer, in order to make sure the proper pedestrian crossing as well as stop controls throughout the center. An aerial view of the parking lot showed where the expensing facility would be situated in regards to the Giant Store.

Council President Kisselback asked Mr. Benner, the Township Engineer, to comment on the interconnect drive regarding option 1 and option 2 of the engineer report. Mr. Benner indicated, the applicant chose option 1 according to the Township Engineer's memo dated April 16th, 2020 which consists of an additional crosswalk, a stop bar and stop which causes vehicles to stop to allow pedestrians to cross on the diagonal to the sidewalk.

Solicitor Pizzo asked **Mr. Adelman** if all of the items in (C) Chapter 232 – Zoning regarding the variances have either been obtained or the plans have been revised to address all of the zoning issues. **Mr. Adelman** indicated they received variances for the use and the overall parking and the options that **Mr. Benner** had previously discussed.

Council President Kisselback addressed (D) Chapter 201 – Land Development and asked **Mr. Adelman** if they are a will comply or will there be waivers. Item 1, Item 2, Item 3 and Item 4 under this Chapter are a will comply.

Council Member Sloane asked Solicitor Pizzo to elaborate on this applicant as it relates to a previous case in Plumstead. Solicitor Pizzo indicated this originally came before Council through the applicant as a "which way would you rather us proceed", change the ordinance, or obtain variances. It was the considered opinion of this Council they were not collectively of a mind to go ahead and make the change that was being proposed as a text amendment to the Zoning Ordinance, and in light of the fact the applicant needed dimensional variances to go along with the use variance. Therefore, as requested and directed by Council, the applicant went to the Zoning Hearing Board and got the variances that were requested. In so far as whether, if pressed, the Township would be forced to make gas pumps an accessory use to supermarkets in the 21st Century, there is some case law out there that would suggest the courts of this Commonwealth are starting to lean that way, and gas pumps, maybe in some quarters, considered to be accessories to the modern gas station. At this point in time that question is not before Council and Council may collectively want to revisit in the future whether a change to the Township's Zoning Ordinance is prudent and whether it is something Council would want to do.

Council Secretary Knowles asked **Solicitor Pizzo** if he was correct in his assumption of Council having control over the installation of gas pumps at supermarkets. **Solicitor Pizzo** indicated the Township's ordinance, at this point in time, does not make gas pumps an accessory use by right to supermarkets.

Council President Kisselback indicated the best solution would be to change the ordinance, it would be the appropriate way of doing it as opposed to everybody coming back for a use

variance. **Council Member Sloane** agreed this should be done to Council's satisfaction, and as a governing body, Council should pro-actively address the changing of the ordinance.

Solicitor Pizzo indicated, fortunately, Echo Bensalem LLC presented language that Council can work from and the ordinance is something that can be recirculated and visited at another point in time. Echo Bensalem LLC has taken the path they were asked to take and secured the necessary variances. This particular bank of eight gas pumps is permitted at least from a zoning perspective. The application is teed up and ready for Council's consideration.

Council Secretary Knowles asked if anyone can use the pumps or do you have to have a Giant Membership Card to obtain gas. **Joe Lacameanya**, Representative from Giant Food Stores, indicated no membership is needed, anyone from the public can use the gas pumps, you just get extra points earned if you have a Giant card and use the fueling station.

Council Vice President Pilieri asked if the road the applicant was putting through the shopping center will be done the same time everything else is being done and can be used right away. Mr. Adelman indicated the road would be accessible right away. Council Vice President Pilieri asked if there will be signage pointing the people in the proper direction because there are so many inappropriate turns entering and exiting the shopping center. Mr. Adelman indicated there was no specific signage but would definitely add the request.

Council Member Tokmajian indicated in terms of the plan, what is the purpose of the ice vending pad. Mr. Lackameanya, responded on behalf of Giant who requested the ice vending pad or some sort of vending to be added for purchase by the customer. Council Member **Tokmajian** asked what would be the hours of operation. Mr. Lackameanya indicated the fuel stations are usually from 6:00am to 11:00pm. The vending is mostly for convenience and most likely will be used for the sale bags of ice. Council Member Tokmajian asked if the kiosk will be staffed during the hours of 6:00am to 11:00pm. Mr. Lackameanya indicated that would be correct. Council Member Tokmajian asked Solicitor Pizzo if the easement agreement had been reviewed. Solicitor Pizzo indicated it had not been as of yet, but if council approves the application this evening it will be condition of approval and satisfactory in form and content both to the Township Engineer and to the Solicitor's office. Council Member Tokmajian asked questions about expansion of the store and the location of the fire hydrant.. Mr. Lackameanva explained there were no discussions involving expansion of the Giant store at this time. **Brian Meyers**, Project Engineer, explained the hydrant was the closest to the store. Mr. Tasone explained there are several safety features on the fuel facility. Underneath the gas dispenser, if there is any detection of a leak or issue the fuel tanks will shut off dispensing fuel. If a car accidently drives off with the hose still attached to the cars gas tank, there is an automatic shut-off valve at the dispenser itself that shuts off the flow of gas. If accidentally a customer would hit the dispenser the cut-off and shut-off valves trigger and there is monitoring off-site and monitoring in the store and monitoring at the corporate office for any type of leak or disaster. The kiosk attendant also has an automatic shut-off valve to shut-off all flow of fuel to any of the dispensers.

Council Vice President Pilieri asked Solicitor Pizzo if the applicant had to have the agreement for the cross easement into the other center being able to be used before they build the fueling station which was a concern for safety reasons. Solicitor Pizzo indicated the cross easement agreement is something that will have to be reviewed and approved by the Township and will be recorded in Doylestown contemporaneously with the recording of the Record Plan

Council Member Sloane mentioned there was no assessment from the Impact Committee and did notice Mr. Devaney's traffic study did note there would be a small increase in trips. This would be applicable to an impact fee and how would that be determined. Council President Kisselback asked Mr. Adelman if he would agree to whatever the assessment fee was from the Impact Committee. Mr. Adelman agreed the fee would be paid accordingly. Solicitor Pizzo indicated that it was covered by item number four of the engineer's letter which references the TPD letter which references an impact fee will be necessary.

Council Vice President Pilieri asked if the vending area will be selling propane. **Mr. Adelman** explained the Township ordinance has regulations regarding what can be near a gas pump or a dispensing facilities and will comply with the Township regulations.

Council Member Tokmajian made a motion to accept and approve the application submitted under tax parcel 2-37-60, 60-1, 60-2 and 60-3 which will include and comply with the T and M letter number 1, 2 and 3, 4, 5 and 6 which also includes the review and approval of the cross easement agreement by Solicitor Pizzo and if there are any issues Council will be notified. The approval will also include the connection being constructed the same time as the pump installation, and in addition to the directional signs being installed around that area to ensure vehicle traffic complies with the signs. The applicant has agreed to the impact fee as calculated by the Townships Impact Fee Committee. Propane tanks are not permitted to be sold or dropped off around the pumping facility. Council Vice President Pilieri seconded and the motion carried 5-0.

7. CONSIDERATION OF A MINOR SUBDIVISION:

Applicant: AV Hotels LLC Location: 1329 Bristol Pike

Proposed Use: Mixed Use

Zoning Classification: PCD – Planned Commercial Park District

Tax Parcel: 2-30-108

Mr. DeMarco, solicitor for the applicant, indicated he had received variances from the Township Zoning Hearing Board back in February for the sub-division, sent the required notices prior to the hearing and there were no neighbors in attendance. There is no new construction, no work proposed, it is just to subdivide the restaurant lot and its parking from the hotel lot. There were some conditions on the decision and Mr. DeMarco followed up with the Townships Building and Planning Director, Mr. Kenneth Farrall and Mr. Farrall agrees the conditions were addressed. Mr. DeMarco stated there were concerns about the notices for this meeting with Council. The notices were forwarded to Mr. Pizzo via email and discussed how those notices were presented and mentioned he received late notice regarding being on Council's agenda for this evening meeting. Council President Kisselback asked Mr. **DeMarco** if the notices were mailed "registered receipt". Mr. DeMarco indicated they were not mailed registered receipt, they were hand delivered and sent overnight mail via FedEx. Mr. **DeMarco** tried to plead his case due to short notice of the meeting and ask Council to approve the subdivision. Council Member Tokmajian asked Solicitor Pizzo if he had reviewed the notices and if it is acceptable with hand delivering the notices without receiving confirmation they have been delivered. Solicitor Pizzo stated the Township Ordinance requires, for a hearing such as this, seven days prior notices mailed to adjacent property owners within four

hundred feet of the property. It does not require advertisement in the newspaper nor does the Municipality Planning Code. In this case, because the meeting is operating in a virtual format, pursuant to the Act of the State Legislature that is allowing the virtual meeting. Notice of this hearing was advertised in the Bucks County Courier Times in the Legal section of the newspaper as well as the prior hearing which is notice to the entire community, something that routinely isn't done. The applicant has provided, with verification, the notices were either hand delivered or sent by overnight mail, as represented by Mr. DeMarco, to the six property owners who are entitled to receive this notice pursuant to the Townships statute. The hand delivers were effectuated either on Friday, June 19th, 2020 or Saturday, June 20th, 2020. Council Member Tokmajian told Solicitor Pizzo as long as he was comfortable with it, and the Township doesn't fall into any legal issues, he would be fine moving forward. Solicitor Pizzo indicated there is always a possibility and to some extent this property owner, in what they are asking the Township to do, are proceeding at their own peril. If the Township was not in the middle of a COVID and if the Township was not otherwise operating under a slightly revised set of rules, the Solicitor advised Council that they would not be able to hear this applicant this evening.

Council President Kisselback asked Mr. DeMarco if he was aware of the Stormwater Management Agreements relative to the surrounding properties. Mr. DeMarco was not aware of those agreements but would comply. Once again, Mr. DeMarco pleaded his case to Council to approve the applicants request to subdivide the property. Council President Kisselback reiterated that the applicant would be in agreement to adhere to any previous contract or agreements regarding Stormwater Management and obligations on the property owner. Mr. DeMarco agreed.

Council Member Sloane stated his biggest concern is the amount of missing information before Council and perhaps if Council would postpone this request until the next meeting it would give the applicant time to get the relevant information. There is a great deal of discussion on certain topics pertaining to the property which was not supplied for this evening's presentation.

Council Secretary Knowles explained to **Mr. DeMarco** the property owners belonged to an Association which were going to manage the Stormwater Management Agreement and other agreements and/or contracts to be handled between the property owners.

Council Vice President Pilieri asked Solicitor Pizzo if the property owner knows they are unable to subdivide outside of the development. Solicitor Pizzo indicated Mr. DeMarco's ultimate goal is to simply change the ownership of the restaurant, the lessee, Bob Evans, would remain in place and all of the other aspects, all of the other intermingled relationships would stay intact. This will need to be accomplished by whatever documents are being discussed at this moment in the way of cross easements and also a revision or an amendment to the operating agreement among and between the various property owners. Mr. DeMarco is not aware of the fact when Bensalem 21 came in for its Land Development there were a number of stormwater issues that were addressed at that time. Solicitor Pizzo reiterated Council Member Sloane's request as to Council wanting to hear those issues have been addressed or somehow something isn't going to get "lost in the cracks". The Township wants to see all the documents to make sure that the shared obligations of all the property owners of that site remain intact and to the extent all are equally responsible to make sure like things such as maintenance and particularly the operation of the Stormwater Management remain intact.

Council Member Sloane made a motion to table AV Hotels LLC to a date certain of July 13th, 2020, Council Member Tokmajian seconded and the motion carried 5-0.

After the motion, Council Member Tokmajian wanted to make a note in question to the parking and whether or not the parking was going to meet code once the property was subdivided. Mr. DeMarco spoke to Mr. Farrall, Township Building and Planning Director, and the original plan did meet code when it was constructed. The restaurant, under the current code provisions, will be short. Mr. Farrall agreed with Mr. DeMarco that the current code requirements were not the same as to when the property was constructed and it fully met code when it was constructed and again, no physical change to either structure. It is a nonconforming condition that will remain. Council Member Sloane indicated it would be a nonconforming condition on a brand new tax parcel. Council Member Tokmajian asked Solicitor Pizzo if the applicant will need a zoning variance or waiver. Mr. DeMarco indicated no variance is necessary because it is legal when constructed, thereby, a pre-existing nonconforming structure. Solicitor Pizzo indicated Mr. Farrall has apparently already weighed in on the question. If Mr. Farrall, in his capacity as the Zoning Officer, has said what's going to happen is okay, this is something Solicitor Pizzo would need to further discuss with Mr. Farrall. Council Vice President Pilieri asked Solicitor Pizzo if he could have copies of the cross easement agreements for the whole complex for the next Council meeting. Solicitor Pizzo directed Council Vice President Pilieri's request to Mr. Benner, Township Engineer, to have the appropriate people pull those documents.

8. REQUEST FOR WAIVER OF CURB AND SIDEWAL INSTALLATION SUBJECT TO PAYMENT OF A FEE IN LIEU OF:

Applicant: Arvydas Pukys Site Information: 2430 Paris Avenue

Tax Parcel: 2-7-72

Engineer Benner indicated there are no curbs and sidewalks in this area and **Quinton**, **Township Principal Inspector**, recommended the fee in lieu of the curbs and sidewalks and the fee amount would be \$1,700.00. Council Member Sloane asked if the applicant was doing any construction on the lot. **Council Secretary Knowles** indicated the construction was a house.

Council Vice President Pilieri motioned to approve as presented and the fee in lieu of as presented by Engineer Benner, Council Member Tokmajian seconded and the motion carried 5-0.

9. PUBLIC COMMENT EMAILS:

Council President Kisselback asked **Solicitor Pizzo** if there were any Public Comment Emails that needed to be addressed.

Solicitor Pizzo indicated the minutes should reflect the notices for Echo Bensalem were provided in advance of the hearing and they are all in order and there was no Public Comment received during the hearing.

Solicitor Pizzo indicated there was no Public Comment on non-agenda items.

10. OTHER BUSINESS:

Council Secretary Knowles thanked everyone and their efforts for being here and getting the job done and is looking forward to being in Council Chambers when we go Green.

Council Vice President Pilieri is disappointed there is no sports and would like the organizations get together and get the games started.

Council Member Sloane asked for an update on some of the issues pertaining to the Public Comment portion from the meeting minutes of May 26th, 2020. First issue is Joe Connelly, 560 Bristol Pike. Quinton Nearon, Principal Inspector, indicated the hearing was today and continued for 60 days, Mr. Connelly has a new attorney and requested the extension but Building and Planning has not received the new court date for that yet. Next issue is the Fischer's Restaurant and the concrete. **Principal Inspector Nearon** and **Mr. Farrall** met with the owner of Fisher's, they submitted plans late last week and have not yet done a full review. PennDOT is also involved and they had an inspector out a few weeks ago, per the direction of Council, and their office is looking into that as there will be issues with them just as well. Council Member Sloane asked if this has been reviewed by the Township and PennDOT. **Principal Inspector Nearon** indicated it had been reviewed by the Township and PennDOT. Final issue was the inspection of all the curbs in the Eddington neighborhood. Principal **Inspector Nearon** indicated there are 119 locations to be looked at along with the other inspector, they are trying to get a memo prepared for Council. Everything has been correlated with pictures and number and may present each picture to Council, possibly for the next Council Meeting.

Council Member Sloane congratulated all the graduates this year and how nice the ceremony was at Parx Casino for the Bensalem High School graduates. Kudos to all the Bensalem businesses and residents that have helped to get to the Green stage. It has been challenging but information that came out of the governor's office last week showed how well we have been doing. Pennsylvania is one of three states according to the CDC that showed a continued decrease of a number of COVID cases. Continue the hard work and we will get through this together.

Council Member Tokmajian thanked the NAACP for putting together a well-organized rally on June 9th in Linconia Park and the Bensalem Township Police department for being visible and participating. Thank you to the Bensalem Township Police department for putting together and assisting in the Bensalem High School graduation at Parx Casino. Thanked the township employees who put the Zoom meeting together and is definitely looking forward to getting back into Council Chambers next month and wished Council President Kisselback a "Happy Birthday".

The **Mayor** echoed all of the sentiments from Council and commented how Bensalem had acted as it should have through the pandemic as it continues. As we move to the Green

the Township building will be open on Monday, June 29th, 2020 to the public. Please continue to wear a mask when entering the building. He congratulated the "team members" who put the ceremony together as "teams" are essential to getting the job done. Thank you to Parx Casino playing a tremendous role in helping our Bensalem High School graduates enjoy a ceremony.

Engineer Benner wished everyone a "Happy 4th of July".

Solicitor Pizzo indicated the minutes should reflect that Council met in an "Executive Session" on Thursday, June 11th, 2020 for approximately one hour. Present for the session were the five members of Council, Mayor DiGirolamo, William Cmorey, Director of Administration along with the Solicitor. The topic discussed was a matter of real estate and potential litigation, no official action was taken during the "Executive Session" and none is required this evening as a result. **Solicitor Pizzo** indicated he was looking forward to no longer "quarterbacking" the Zoom meetings and looking forward to seeing everyone in a couple of weeks and a "Happy 4th of July" to everyone.

Council President Kisselback indicated these are peculiar times, with the protests and the pandemic, we are living in times that hopefully we will never have to repeat. On a state level we have done a wonderful job, thank you to the Governor. And a special thank you to the Mayor and his administration in keeping things "sane" in Bensalem and worrying about our residents has always been the Mayor's number one priority. Make the 4th of July a special day and remember what America is about and the independence we all share by saying "God Bless America!"

11. ADJOURNMENT:

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

The Bensalem Township Council Meeting of June 22_{nd}, 2020 can be viewed in its entirety at the following websites:

www.bensalempa.gov or www.youtube.com

Respectfully Submitted,

Debora F. McBreen Recording Secretary