

The stated meeting the Public Affairs Committee of the Board of Commissioners of the Township of Abington was held on Wednesday, November 1, 2017 at the Township Administration Building, Abington, PA., with Commissioner Spiegelman presiding.

**CALL TO ORDER:** 7:41 p.m.

**ROLL CALL:** Present: Commissioners SPIEGELMAN, BOWMAN, SCHREIBER, ROTHMAN, KALINOSKI

Township Manager MANFREDI  
Assistant Township Manager WEHMEYER  
Township Solicitor CLARKE

Also Present: Commissioners LUKER, KLINE, FARREN, MYERS, DiPLACIDO, SANCHEZ, ZAPPONE, GILLESPIE, BRODSKY, HECKER (8:16 P.M.)

**MINUTES:** Commissioner Spiegelman made a MOTION, seconded by Commissioner Kalinoski to approve the minutes of the October 4, 2017 Public Affairs Committee Meeting.

MOTION was ADOPTED 5-0.

**PRESENTATION:**

Library Board Member – Air Conditioning Construction Update:

Mr. Brian Mays, Treasurer of Abington Free Library, said in mid-July, the condenser broke and paralyzed the library's function, so it needed immediate attention that took some time to resolve. The library was closed for 10 consecutive days in July and had to operate some of the functions from the Roslyn branch. There were additional expenses as we needed to bring in an additional air conditioner and portable chillers until the permanent condenser was brought in during the month of September. Once the condenser arrived in September, there was stalled installation taking much longer than expected, so it was out through September and most of October.

We had to turn away approximately 1,000-1,500 people per day, and in total, there were 30,000 patrons, who were not able to attend the library. We also had to cancel numerous summer programs such as children reading programs and science programs, etc. The Book Seller's sales were down 50%-65% over two months.

He thanked library staff for their flexibility as well as Manager Manfredi and the Board of Commissioners, who shouldered the burden of additional expenses for the library. He specifically thanked Commissioners Spiegelman, Kalinoski and Myers for their support of the library through this difficult time.

Commissioner Spiegelman commented that another factor that made things difficult during the installation of new condenser was that there was a heat wave in September and October.

Commissioner Schreiber gave a shout out to the staff of the Roslyn Library as they did a great job during the closure of the main branch.

Consider Disposition/Destruction of Abington Township Police Department Records:

Commissioner Spiegelman made a MOTION, seconded by Commissioner Kalinoski to authorize the disposal/destruction of Accident, Utility, Offense reports, copies of traffic citations and completed/closed summary arrest reports from 2004 through 2010. Completed/Closed case folders, excluding major crime cases, through 1995. Police employee overtimes cards, detail invoices, K9 sheets and payroll/deposit forms through 2011.

Commissioner Spiegelman asked for any comments from Commissioners or staff. There were none.

Commissioner Spiegelman asked for any public comments.

Lora Lehmann, 1431 Bryant Lane, questioned whether digital copies are kept and paper copies are being disposed of. Also, she feels “we do not have a clear view of what the comparative intersection crashes are.”

Manager Manfredi replied every record is paper, so destruction of records are primarily paper. Any records that the Records Department and Chief Livingood are required to be kept are done so.

Commissioner Schreiber clarified that what is being voted on is closed cases between 2004 through 2010.

Dan Mellon, 228 Church Road, asked are digital copies made and stored prior to them being destroyed?

Commissioner Spiegelman replied those records required by law are preserved both in digital and paper form and the ones that are not, no.

Manager Manfredi said an executive summary was provided to the Board in which he read into the record as follows:

*“EXECUTIVE SUMMARY: Disposition/ destruction of these records is in accordance with the schedule set up by the State of Pennsylvania (Chapter 13 of Title 46 of the Pennsylvania Code, entitled Retention and Disposition Schedule for Records of Pennsylvania Municipalities, promulgated by the Pennsylvania Historical Museum Commission). The request for the destruction of Police Department records is the second part of an ongoing project. The project is in compliance with the Municipal Records Act of 1968, (pertinent sections attached) and Abington Township Ordinance No. 1652. On November 12, 2009 the Board of Commissioners authorized the disposal/ destruction of Police Department records through 2004 (list of items/meeting minutes attached) Destruction of these records is now complete. We currently have three 95 gallon bins at the Public Safety Annex building. Shred One shred the contents of the bins once a month. We expect to need the bins through February 2018.”*

Mr. Mellon asked are there any plans in the future of implementing a digital system to keep records indefinitely?

Solicitor Clarke replied the law does not require maintaining these records in perpetuity as many of the records are a minimum of eight years old and some are 12-13 years old. Appeal periods have passed, driver license issues have passed and any lawsuits have long since passed regarding accidents, so there is no need to maintain them. The law permits records to be destroyed that have no purpose after a certain period of time.

Commissioner Kline added that these outdated traffic accident reports would no longer be useful in traffic studies of any intersections.

MOTION was ADOPTED 5-0.

Presentation of a Cooperation Agreement between Abington Township and the Redevelopment Authority of the County of Montgomery

Commissioner Spiegelman said this item is to consider the MCRDA request to adopt Resolution No. 17-029 of the Township of Abington, County of Montgomery, Commonwealth of Pennsylvania, authorizing the President of the Board of Commissioners and the Township Secretary to execute a Cooperation Agreement with the Redevelopment Authority of the County of Montgomery.

If the Board supports the adoption of a Cooperation Agreement, a motion to adopt Resolution No. 17-029 would be in order. Conversely, if the Board does not support a cooperation agreement, no action is required.

Allyson Fritzges, of Riley, Riper, Hollin & Colagreco, Attorney representing the Montgomery County Redevelopment Authority, introduced Judith Kratka representing Abington Hospital, who was also present. Abington Hospital applied through the RDA for a Redevelopment Assistance Capital Program (RACP) grant in the amount of one million dollars and received grant award from the Commonwealth of Pennsylvania. In order for the hospital to receive those grant funds, there are special conditions and one is a Cooperation Agreement with the RDA that is sponsored by the municipality (Abington Township), and if there are any ineligible costs, Abington Hospital will reimburse the Township.

Commissioner Kline referred to Page 2, Paragraph 2 of the Cooperation Agreement and clarified that the sub-agreement between the RDA and Abington Hospital indemnifies the Township from any of those clauses of the unconditional guarantee of monies being transferred from the grant. Is that correct? Also, he asked for a copy of that sub-agreement between the RDA and Abington Hospital prior to next week's Board meeting and clarified the Township Solicitor reviewed all relevant agreements including that sub-agreement indemnifying the Township. Is that correct?

Ms. Fritzges replied that is correct.

Solicitor Clarke replied yes. This is a standard agreement and the Township is protected

Commissioner Kline said there is the process of the Township being the guarantee and then there is a sub-agreement. What is the need for the Township to be the guarantee?

Ms. Fritzges replied because the State requires this middle step in the process and the language in the sub-agreement is that the State has approved the Township to be indemnified.

Commissioner Spiegelman asked for any public comments. There were none.

Commissioner Spiegelman made a MOTION, seconded by Commissioner Bowman to add the motion to adopt Resolution No. 17-029 to the agenda of the November 9, 2017 Board of Commissioners meeting.

MOTION was ADOPTED 5-0.

Consider Acquisition of 1100-1102 Old York Road

Commissioner Spiegelman said this is consideration of condemnation of certain real estate property located at 1100-1102 Old York Road; or consider authorizing the purchase of the property at 1100-1102 Old York Road.

This is in regards to essential properties that need to be acquired for the Old York Road/Susquehanna project in which they are located on the northwest corner of Old York and Susquehanna that jut out directly into the intersection. There have been ongoing negotiations to try to purchase these properties at fair appraisal value per the terms of the Township's mobile grant funding. Once the Township takes possession they would be condemned and demolished in addition to other acquired properties that would allow for the straightening and correction of the intersection of Old York and Susquehanna Roads.

The other alternative is the most recent offer from a property owner, which is a purchase price of \$60,000 above appraisal value of \$190,000 and the last offer from the owner was \$250,000. The Township has entered into agreement with RDA to move forward with property acquisition for this project.

The buildings are blighted properties that are vacant commercial buildings and the intention is to acquire these properties and demolish them. Where these properties now stand would be a properly aligned corrected intersection at Old York and Susquehanna Roads with sidewalks; proper ADA curb cuts; upgraded crosswalks and bike lane connectors, etc.

Solicitor Clarke said the Township has reached an impasse with the property owner that the demand for the purchase of this property far exceeds the appraised amount, and in the interest in moving this project forward, the proper course of action would be to consider authorizing the filing of declaration of taking, which could be prepared for next week's full Board meeting.

Commissioner Gillespie asked legally, what will the Township's expenses be? Would it equal \$60,000?

Solicitor Clarke replied he seriously doubts that legal and filing expenses would come anywhere close to \$60,000. During executive session, he gave his opinion on what he thought the legal expenses would be in this matter. The Township has the power to condemn and it is being done for a public purpose along with the cooperation of the RDA, so by law, it can be turned over to a private developer to redevelop the site. This is a matter of what the value is and those are not usually lengthy court processes. If they do not agree with the value, they have a right to file for a Board of View who makes the determination.

Commissioner Sanchez clarified that the vacant commercial properties are the bottom floors and the upper floors are vacant apartments.

Commissioner Spiegelman added every year, the Township had to clear sidewalks of snow as these properties have been completely un-maintained.

Commissioner Farren questioned whether appraised value is what we would get on the open market.

Solicitor Clarke replied the appraiser determines the fair market value of the property and then the Township could offer estimated just compensation, which is the fair market value and it was appraised it as its highest and best use at this time. So the dollar figure that it was appraised at is the highest value of the property in the open market.

Commissioner Farren said if the Township condemns and goes through eminent domain, what is the compensation for the property?

Solicitor Clarke replied estimated just compensation will be the amount of the appraised value, and if the property owner wants to file an appeal to the Board of View, they will make final determination for what it is worth.

Commissioner Myers questioned whether the decision by the Board of View can be appealed, and if so, can it be appealed further?

Solicitor Clarke replied yes, it can be appealed to the Montgomery County Court of Common Pleas for either a jury or bench trial. It can also be appealed to the Commonwealth Court of Pennsylvania and further to the Supreme Court of Pennsylvania.

Commissioner Myers asked if appeals went that far would costs fall under the Solicitor's retainer.

Solicitor Clarke replied he will not be handling the condemnation. It will be done by the RDA, and any work that his firm has done to-date on this matter has been covered under the retainer.

Commissioner Myers asked if the Township would have to go through all of these steps it could take years, and under the new agreement will the Township have to reimburse the RDA for those legal fees.

Ms. Fritzges replied yes.

Commissioner Spiegelman said as Commissioner of the ward that these properties are located and as someone who has worked for many years along with Commissioner Sanchez, who serves with him on the Old York/Susquehanna Roads Steering Committee; weighing the importance of this project not only for this location and the future of the Old York Road corridor, but also for the future of our other major corridors against the most responsible potential and active use of taxpayers' dollars and parameters that Township staff worked very hard on especially Assistant Township Manager Wehmeyer; he supports this action.

Commissioner Sanchez agreed that he fully supports it as well.

Commissioner Kalinoski questioned the intention of the property owner and noted that this property has been there for years and has never been used.

Manager Manfredi commented that the threshold and legal costs would be a lot less than \$60,000.

Commissioner Bowman said he supports the declaration of taking of property as it is essential to this important project.

Commissioner Rothman commented that generally speaking, he is very reluctant for the Township to engage in this process; however, it is entirely appropriate that we do so based on all information provided throughout the process and multiple legal counsels.

Commissioner Myers said she is 100% behind this project as it is necessary and important; however, her concern is the process on how it is being done, but the end project has all of her support.

Commissioner Spiegelman made a MOTION, seconded by Commissioner Bowman that the Township condemns certain real estate property located at 1100-1102 Old York Road.

Commissioner Spiegelman asked for any public comments. There were none.

MOTION was ADOPTED 5-0.

Consider Resolution No. 2017-028

Commissioner Spiegelman made a MOTION, seconded by Commissioner Kalinoski to authorize condemnation of portions of certain real estate property locate at or near state route 2034 (Edge Hill Road), Section MGI, and/or state route 2036 (Tyson Avenue), Section MGI, as more particularly described below, for the acquisition of temporary construction easements for the purpose of roadway and other public improvements for the Edge Hill Road and Tyson Avenue reconstruction project, federal project number X064193-L240, Pennsylvania Department of Transportation Project MSMP 57865.

Commissioner Spiegelman asked for any comments from Commissioners or staff.

Commissioner Zappone said he has been working on this project for some time now and this project will begin soon. There have been a few holdouts and he, along with Commissioner Gillespie has tried to contact the property owners. This project affects over 200 people and he and Commissioner Gillespie and his residents have been waiting for this project for a very long time. There have been many town hall meetings and we are all ready for it to begin. He supports it and commended Solicitor Clarke and his team for their work on it.

Commissioner Gillespie noted that these are just temporary easements and not the taking of property.

Solicitor Clarke said the six properties the Township is contemplating filing of declaration of taking against are all temporary construction easements, which means during construction phase of this project, the contractor will be going onto their property with equipment, etc. and after completion, the Township will restore the property to what it was beforehand. PennDOT or the contractor will take photos of the property prior to the project and the property owners will be compensated for it.

This is a PennDOT project and all steps that have been taken are required by PennDOT. Commissioners Zappone and Gillespie as well as Township Engineer were in contact with all of the property owners. These six property owners have been determined by PennDOT to be non-responsive. PennDOT wants to go out for bid on this project early next year and they need the Township to acquire the easements of these properties. PennDOT will not award the contract on this job until the Township has complete and total site control.

If the Board approves this next week, we are required to send out a memorandum of law and a letter to the property owners and then need to wait 14 days, and then if the property owner has not signed the paperwork at that time, then the Township can file a declaration of taking.



Commissioner Zappone said the Township is basically borrowing a piece of their property and paying them for it and then putting it back the way we found it. He will not have a few residents stand in the way of this project that has been worked on for such a long time.

Commissioner Schreiber asked is it the same appeal process even though this is a temporary borrowing situation and there are various costs with it. Is that correct?

Solicitor Clarke replied yes. The law allows for dispute of the taking.

Commissioner Schreiber questioned whether all six property owners could dispute it separately or do they need to dispute it together.

Solicitor Clarke replied normally, PennDOT does not permit multiple declaration of takings in one group, but do allow up to six properties at one time, and since there are six, we can do this with one resolution, one declaration, although we will be naming the individual property owners. This is a government entity empowered with the power of eminent domain, so preliminary objections could be thrown out quickly and the Township will then have control over the property within 30-90 days, and then PennDOT can move forward with awarding the contract.

Commissioner Kalinoski said this also affects his ward where there is still flooding and this project will relieve water runoff from Tyson and Edge Hill. Has there been any response from these six property owners?

Solicitor Clarke replied they have been completely non-responsive to mailings and invitations to community meetings.

Commissioner Zappone reminded everyone that the next community meeting will be held on Tuesday, November 14<sup>th</sup> at the 7 p.m. at the VFW.

Commissioner Rothman stated that this concept of condemnation and eminent domain is not something that the Board takes lightly or regularly engages in. Township staff, the Board of Commissioners and Solicitor Clarke and his team have tried to do everything they could to not let it get to this point.

Commissioner Kline said he knows how long Commissioners Zappone and Gillespie have been working on this project and how important it is to the area. He clarified that PennDOT permits six or less condemnations to be taken together, so in the timeframe of any actions through the appeal process, they could still have their own separate filings. Is that correct?

Solicitor Clarke replied it would be one filing of declaration of taking, so it is docketed as one matter and assigned to one judge with the same schedule.

Commissioner Kline said this stormwater management project has been needed in this area and it should move forward.

Commissioner Spiegelman asked for any public comments. There were none.

MOTION was ADOPTED 5-0.

Commissioner Spiegelman asked for any general comments relating to Public Affairs.

Lora Lehmann, 1431 Bryant Lane, commented that she feels digital traffic records should be kept. Also, she asked for a copy of the speaking rules to be out on the desk, and she would like to understand why the engineering and code departments are being merged.

**ADJOURNMENT:** 8:52 p.m.

Respectfully submitted,

Richard J. Manfredi, Township Manager/Secretary

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