

**BOARD OF SUPERVISORS  
MEETING MINUTES  
March 2, 2020**

A Regular Meeting of the New Britain Township Board of Supervisors was held on Monday, March 2, 2020, at the Township Administration Building, 207 Park Avenue, New Britain Township, PA, beginning at 7:00 p.m. Present were Supervisors: Chair William B. Jones, III, Vice-Chair Helen B. Haun, Members Gregory T. Hood, Cynthia M. Jones, and MaryBeth McCabe, Esq. Also present were Assistant to the Township Manager Michael Walsh, the Township Solicitor Peter Nelson, Esq., and Craig Kennard from the Township Engineer's Office. Absent was Eileen M. Bradley, Township Manager.

- 1. Call to Order:** Mr. Jones called the Meeting to order.
- 2. Pledge of Allegiance:** Mr. Jones led the Board and audience in the Pledge of Allegiance.
- 3. Announcements:** Mr. Jones announced that the Board had met in Executive Session prior to this Meeting to discuss personnel issues and litigation.
- 4. Public Comment on Non-Agenda Items:** There was no Public Comment at this time.
- 5. Approval of Minutes:**
  - 5.1. Minutes of Meeting of February 24, 2020:**

**MOTION: A motion was made by Mrs. Haun, seconded by Ms. McCabe and unanimously approved to accept the February 24, 2020 Minutes as written.**
- 6. Departmental Reports:** There were no Departmental Reports at this time.
- 7. Consideration of Old Business:** There was no Old Business at this time.
- 8. Consideration of New Business:**
  - 8.1. Circle Drive Encroachments:** Mrs. Jones stated that she would recuse herself during this agenda item and took a seat in the Audience.

Mr. Nelson provided a brief background on the current issue. Encroachments were brought to the Township's attention when a property owner on Circle Drive reported a tree was in danger of falling onto his personal property and requested the Township remove the hazardous tree. Staff investigated and determined that the resident's personal property was located on Township-owned open space. During investigation, Staff identified several additional encroachments by residents abutting the Township open space adjacent to Circle Drive. Two letters were sent to residents, dated November 25, 2019, and January 16, 2020, informing residents of the encroachments and requesting removal of the encroachments from Township property. The second letter included a surveyed plan showing the exact extent of the encroachments into the Township's property. The Township was acting as property owner, whose property had been encroached upon. The issue was before the Board to discuss the proper means by which to handle the encroachments.

Mr. Jones opened the floor to residents for public comment.

Mrs. Cynthia Jones of Circle Drive stated that as a resident, she was disappointed with the tone and content of the first letter, specifically the sixty-day (60) time frame. Ken Jones, Debbie Bugno and Bill Bugno of Circle Drive agreed with Mrs. Jones. Mr. Nelson stated that the letter was a standard form letter used by New Britain Township and other municipalities. The Board agreed that they would look to see if communication with residents could be improved in the future.

Mr. Ken Jones of Circle Drive stated the he and his wife were unaware of the encroachment when they purchased the property twenty years ago and had assumed the existing fence was on their property line. They had made improvements to their property based on this assumption. The letter, dated January 16, 2020, mentioned that the Township was open to discussing individual property owner's needs related to the return of open space to its original state beyond the initial sixty days mentioned in the first letter.

Debbie Bugno and Bill Bugno were also interested if the Township was open to working with residents on a time frame to remove the encroachments. Mr. Nelson stated that the Board would take feedback from residents and discuss an appropriate time frame.

Mr. Ken Jones asked how residents would need to proceed to start these conversations, if they required additional time. Ms. McCabe stated that the Township was planning to reach out to residents to discuss their individual encroachments. Mr. Nelson agreed with Ms. McCabe and stated that homeowners can always reach out to Township staff at any time with questions or to schedule a meeting.

Mr. Ken Jones asked if the Township sent any notice to residents that this would be an agenda item this evening. Mr. Nelson stated the Township does not send out individual notices of agenda items. The agenda and packet are posted to the Township website the Friday prior to all advertised Board of Supervisor meetings. Mr. Ken Jones asked if the Township would seek out other encroachments throughout the Township. Mr. Nelson stated that the Township handled encroachments as they become aware of them. Township staff did not have the capability to search out encroachments on a routine basis and relied on residents to report violations. Mr. Ken Jones asked if there were any resident complaints about Circle Drive. Mr. Nelson stated that a complaint was received from a Circle Drive resident about a tree in danger of damaging property that was later determined to be located on Township property.

Mr. Ken Jones asked if the Township had entered into any license agreements on Township-owned property in the past. Mr. Nelson stated that he was only aware of the license agreement at 215 Diana Drive that was supplied by the Jones's attorney. Mr. Ken Jones stated that he believed for many years that the fence on their property was located on the property line, and stated that he and his wife would accept and comply with the Board's decision. Mr. Ken Jones stated that he would be seeking out other encroachments in the Township.

Bill Bugno, Palmer Rossi, Eden Harvest, Robert Byrnes and Margaret Briggs, on behalf of Joann Gamble, of Circle Drive stated that they were interested in license agreements. Mrs. Haun and Mr. Jones stated that they did not recall any license agreements. Mr. Nelson stated that Township staff would review any past license agreements entered by the Township, but added that actions or decisions made by past Boards cannot bind the present Board. Mr. Nelson stated that it was important to keep in mind that a license agreement is revocable at any time by the grantor and does not provide the residents with any protection from a future board revoking the license.

Mrs. Bugno of Circle Drive asked how the fence could be installed on Township open space. Mr. Nelson stated the Township did not require permits for fences, and these fences were installed improperly. Even with permit a property owner is responsible to have the property surveyed to identify their property lines and to ensure all information provided in a permit application is accurate and correct.

Mr. Robert Byrne of Forest Park Drive stated he was there on behalf of his sister-in-law, JoAnne Gamble of Circle Drive. He asked if the recent survey was any more accurate than the one from 1978. Mr. Kennard stated that he was not a surveyor, but was confident that the survey was accurate based on the number of original pins found at the time of the newest survey. Mr. Byrne asked why the Township could not just allow the encroachments, the same way he could allow someone to use his property. Mr. Nelson stated that the Township could be liable and dragged into a lawsuit. Mr. Kennard stated that there were substantial encroachments identified in the survey, presenting substantial liability to the Township.

Mrs. Haun inquired into what regulations were in place related to this property. Mr. Nelson replied that there is state law governing donated property or land dedicated by a developer in compliance with the Subdivision and Land Development Ordinance for open space, a park or road. ~~A next step could be for the Township to put the property up for auction and sell to the highest bidder, which could be corporate, for profit or non-profit.~~ Mrs. Haun asked if it could be bid on and sold to a developer who could build property. Mr. Nelson answered that the owner would have to meet the ordinances. 4/20/20

Mr. Hood inquired if the Township could deed restrict the property, get the proper authority to approve going to auction, go through the process, and if so, could they form an HOA to purchase and maintain. Mr. Nelson replied that the property would be sold at auction to the highest bidder, but would need court approval to sell. It would be difficult for the municipality to prove that the property could no longer be used for its original purpose of open space.

Mrs. Haun stated that the Board should not allow anyone to encroach into the Township Open Space.

Mr. Hood stated that Supervisors were elected by over eleven thousand Township residents, not just the twenty residents that were affected right now. He sympathized with the people affected, but the Solicitor's job was to keep the Township out of trouble. He could not address agreements entered by past Boards, but the current Board had set policy that anything that encroaching into Township open space had to be removed.

Ms. McCabe stated that she was aware of a complaint directed to a neighbor who had an extensive garden that was maintained for ten years that encroached on Township property. She stated that her neighbor had to remove the encroaching structures and items to bring it back to its natural state.

Mrs. Jones asked if the Board could define bringing the space back to its natural state. Mr. Kennard stated that permanent structures such as benches, pools, ponds, fences, sheds, hedge rows or living fences needed to be removed.

Ms. McCabe asked what the Township's constitutional obligation was for treating everyone equally. Mr. Nelson stated there were legal and political implications. The Township needed to enforce every ordinance equally, and had leeway and discretion to determine what each homeowner must do to comply. Ms. McCabe stated she would like to see the policy applied as uniformly as possible.

Board Chair Mr. Jones stated that there seemed to be a consensus of Mr. Hood, Mrs. Haun, Ms. McCabe and himself that open space would continue to be open space and that the Township was willing to work with each resident on a timeline to come into compliance. No formal decision would be made this evening until all information and documentation provided could be reviewed.

## 9. Consent Agenda:

**MOTION: Upon motion by Mr. Hood, seconded by Mrs. Jones, the Board unanimously approved the following Consent Agenda items: Execution of a Stormwater Facilities Operation and**

**Maintenance Agreement with Robert and Susan Barilla for installation of a swimming pool at 105 Stream Court, TMP #26-033-040, with corresponding Maintenance Guarantee Fee of \$600.50; Escrow Release #8 for Prestige Property Partners LLC and Meridian Bank for the Vineyard at Peace Valley project for \$31,185.00, leaving \$238,721.33 remaining.**

**10. Board of Supervisors' Comments:** There were no comments from the Board of Supervisors at this time.

**11. Township Administration Comments:**

**11.1. Update to Employee Policy Manual:** Mr. Walsh stated that Staff had finalized an update to the Employee Policy Manual that included the new non-uniform medical policy and opt-out program, an update to the CDL drug and alcohol policy for dilute screenings, a medical marijuana policy, a whistleblower policy, and corrections to incidental typographical and style errors. He was seeking the Board's approval to adopt the updated Employee Policy Manual.

Mr. Nelson verified that he had reviewed the Employee Policy Manual updates.

Mrs. Jones asked to clarify two items on Page 51-Part D2 and Page 52. She asked where complaints regarding the Township Manager would go. Mr. Nelson stated that any investigation of the Township Manager would be conducted by the Township Solicitor or the Chair of the New Britain Township Board of Supervisors and the Employee Policy Manual would be updated to reflect this update. Mrs. Jones asked about using the terminology "HR Department", and instead updating the term to "Township Manager and/or the Township Manager's designee".

**MOTION: A motion was made by Ms. McCabe, seconded by Mrs. Jones and unanimously approved, to adopt the update to the Employee Policy Manual with the revisions discussed during the meeting.**

**11.2. HVAC Contract Advertisement:** Mr. Walsh stated that he was seeking the Board's authorization to allow staff to advertise the Township's HVAC Replacement Project for 207 Park Avenue, once Mr. Nelson completed reviewing the bid documents provided by Schiller and Hersh Associates, Inc.

**MOTION: Upon motion by Mr. Hood, seconded by Mrs. Haun, the Board unanimously approved HVAC Contract Advertisement upon final review of the Bid documents by the Township Solicitor.**

**11.3. Saltzman Zoning Hearing:** Mr. Walsh stated that on Thursday, March 19, 2020 at 7:00 p.m., the ZHB would consider the application of Sam Saltzman, 17 Tower Hill Road, TMP #26-021-043 for variances from rear-yard setback requirements to install a pool. Interested parties were encouraged to attend. I was Staff's recommendation to leave the decision to the Zoning Hearing Board. The Board took no action at this time.

**11.4. Execution of Provco/Wawa Record Plans:** Mr. Nelson requested the Board of Supervisors sign the Wawa Record Plans. The signed plans would then be recorded by the Solicitor within 90 days.

**12. Solicitor and Engineer Comments:** There were no Solicitor or Engineer Comments at this time.

**13. Other Business:** There was no Other Business at this time.

**14. Public Comment:** There was no Public Comment at this time.

**15. Payment of Bills:**

470236

**15.1. Bills List dated February 25, 2020 for \$218,546.29:**

**MOTION:** Upon motion by Mr. Hood, seconded by Mrs. Haun, the Board unanimously approved the Bills List dated February 25, 2020 for \$218,546.29.

**15.2. Bills List dated February 25, 2020 for \$275.00:**

**MOTION:** Upon motion by Mrs. Haun seconded by Mr. Hood, the Board unanimously approved the Bills List dated February 25, 2020 for \$275.00.

**16. Adjournment:**

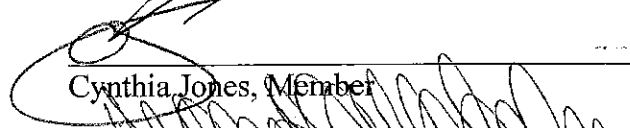
**MOTION:** There being no further business or comment, a motion was made by Mrs. Haun, seconded by Mr. Hood, and unanimously carried, to adjourn the meeting at 8:56 p.m.

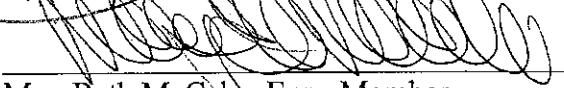
**NEW BRITAIN TOWNSHIP BOARD OF SUPERVISORS**

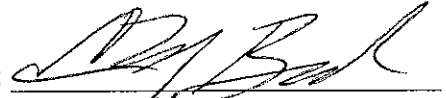
  
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William B. Jones, III, Chair

  
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Helen B. Haun, Vice Chair

  
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Gregory T. Hood, III, Member

  
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Cynthia Jones, Member

  
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MaryBeth McCabe, Esq., Member

Attest:   
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Eileen M. Bradley  
Secretary/Manager



At their Regular Meeting of Monday, April 20, 2020, the Board of Supervisors unanimously voted to approve the Minutes of Monday, March 2, 2020 with the following correction. The below line has been deleted from the text.

*"Mrs. Haun inquired into what regulations were in place related to this property. Mr. Nelson replied that there is state law governing donated property or land dedicated by a developer in compliance with the Subdivision and Land Development Ordinance for open space, a park or road. ~~A next step could be for the Township to put the property up for auction and sell to the highest bidder, which could be corporate, for profit or non-profit.~~ Mrs. Haun asked if it could be bid on and sold to a developer who could build property. Mr. Nelson answered that the owner would have to meet the ordinances."*

Eileen M. Bradley  
Township Manager/Secretary  
March 20, 2020