

**Borough of Kutztown  
Planning Commission  
Minutes of May 9, 2016**

A regular meeting of the Planning Commission was held on Monday, May 9, 2016, at the Kutztown Municipal Building, 45 Railroad Street.

The meeting was called to order at 7:00 by Ms. Lisa Ladd-Kidder, Vice-Chairperson. Members present were: Ms. Lisa Ladd-Kidder, Mr. Tim Haring, Mrs. Pat Snyder, Mr. Allan Oberholtzer, Dr. Chris Habeck and Dr. Andy Arnold. Mrs. Amanda Raudenbush was absent. Also present: Mr. Dan Eslinger, Director of Community Development and Ms. Carolann Moody, Recording Secretary.

**Public Comment on Non-Agenda Items**

There were no comments.

**Comments from Planning Commission Members**

Ms. Lisa Ladd-Kidder commented regarding New Enterprise Stone & Lime's (formerly called Eastern Industries) request to increase the amount of mine discharge water into the Saucony Creek.

Ms. Lisa Ladd-Kidder mentioned that one of the areas of responsibility for the Planning Commission as stated in the Borough's Comprehensive Plan is to monitor and preserve our Wellhead Protection Plan and to apply appropriate conservation measures regarding our water resources. Apparently, many months ago, the Borough was contacted by New Enterprise Stone & Lime (NESL) regarding their desire to expand their quarry operations which would include increasing the amount of mine discharge water sent into the Saucony Creek. Thankfully, the Borough has a legal contract with Eastern Industries (now NESL) called "Conditional Water Supply Agreement", that requires the quarry to stop pumping whenever the water in either of two Borough wells fall below a certain level. This agreement has been in place since 2005 and is the primary protection for our wellhead area and for our water resources. NESL asked to have this contract revised but the Borough has declined to make any such changes!!

According to the Borough's Professional Geologist from SSM, the sole source aquifer for the Borough of Kutztown and surrounding area has an estimated 10,400,000 GPD of groundwater available. The NESL quarry's current DEP permit allows for a maximum withdrawal rate of 7,200,000 GPD (5,000 GPM) or about 69% of the available groundwater recharge for our local aquifer. Now, NESL wants to revise their DEP permit to allow for a withdrawal rate of 11,520,000 GPD (8,000 GPM) or about 111% of the available groundwater recharge rate. Obviously, this withdrawal rate exceeds the ability of the aquifer to sustain itself! Therefore, NESL's request for a new DEP Permit which would allow for a large increase in the amount of mine discharge water to be pumped into the Saucony Creek is both unreasonable and irresponsible!!

During the discussion, Mr. Dan Eslinger stated that NESL has already filed their request for a new DEP petition. Ms. Lisa Ladd-Kidder said that she would discuss this new information with the WWW Committee on Wednesday evening. (It was confirmed that NESL did publish a formal “public notice” on May 9, 2016 regarding their application for a revised DEP permit.)

### **Approval of Minutes**

Motion by Mrs. Pat Snyder seconded by Mr. Tim Haring to approve the minutes with two corrections. First correction was to the time the meeting was called to order (7:30 to 7:00) and the second change was under New Business/225 N Whiteoak St, fourth paragraph, last sentence (change “Manager for” to Zoning Officer and). The motion was passed by unanimous vote.

### **New Business/Action Items**

- **Proposed Ordinance to Regulate Food Trucks in the Borough**

Mr. Dan Eslinger reviewed information regarding the different food trucks, which are currently doing business in the borough late Thursday, Friday and Saturday nights. These food trucks park in the municipal lot by Young Ones. Mr. Dan Eslinger mentioned that he has contacted West Chester and Bloomsburg regarding their food truck ordinances. He asked these other college towns for information such as: where the food trucks are allowed to park, what hours the food trucks are allowed to be in operation, and what distance the food truck could be from the brick and mortar establishments. After a lengthy discussion among the committee regarding fees, food safety, hours of operation, transient retail business licenses, exceptions, and how to identify the food truck personnel, Mr. Dan Eslinger requested members email him any additional ideas/suggestion they may have regarding the legislation that should be incorporated into the ordinance. Mr. Dan Eslinger also stated that this will be discussed at the Community Development/Public Safety meeting on Tuesday, May 10, 2016.

- **Proposed Ordinance Amendment to Chapter 158 “Peace and Good Order” Banning Rooftop Occupancy by Persons on Roofs not Designed for Occupancy**

Mr. Dan Eslinger mentioned that this amendment to the ordinance was started in October of 2014, but had never been completed. Mr. Dan Eslinger stated that he has contacted Mr. Keith Mooney and forwarded him the minutes from the meeting again to remind him that Borough Council does want this amendment to the ordinance. After a brief discussion among committee members, Mr. Dan Eslinger mentioned that he sent a letter to all the landlords to put in their lease agreements that tenants are not allowed on roof tops.

### **Old Business/Updates**

- **Update on Zoning Appeal for 220 South Maple Street**

Mr. Dan Eslinger stated that the owners of 220 South Maple Street requested an appeal of the Zoning Hearing Board’s decision to deny their variance request. A hearing was held at

the Berks County Court. The Berks County Court overturned the Zoning Hearing Board's decision. Mr. Dan Eslinger mentioned that the Planning Commission does not need to take any further action on this.

- **Update on Zoning Appeal for Racetrack**

Mr. Dan Eslinger stated that at the very last minute the owners of the racetrack requested an indefinite continuance on their zoning appeal. Mr. Dan Eslinger mentioned that the Planning Commission does not need to take any further action on this.

### **Off Agenda**

Mr. Dan Eslinger mentioned that Mr. Gabriel Khalife received an application and forwarded it to him regarding a company wanted to install a broadband utility pole on Alex Court in the Hill Top Estates development. Mr. Dan Eslinger mentioned that this "utility pole" is actually a 120' communications tower. Such a communications tower cannot be within 500' of a residence and cannot be near a street. Mr. Eslinger was told by the company that this "utility pole" would transmit microwaves, which would benefit the Borough's internet speeds. However, after a conversation with Mr. David Horvath and Mr. Mark Arnold of the Borough IT Department, it was learned that this broadband utility pole could actually interfere with the Borough's internet service.

Mr. Allan Oberholtzer questioned the progress of the Main Street sidewalk project. Mr. Dan Eslinger stated that Clayton's Concrete Company will be finishing two of the remaining portions of the sidewalk shortly. Mr. Dan Eslinger mentioned that the Borough will still have to complete the sidewalk work at several properties and will have to put a lien on the properties for the cost incurred. Mr. Dan Eslinger stated that the Borough is on schedule to do the repaving late this summer. However, some badly deteriorated storm sewer pipes were located by Shayna Kinner and must be replaced first. The contract has been awarded and the plan is to start right after the Kutztown Folk Festival.

### **Adjournment**

With no further business to discuss a motion was made by Dr. Andy Arnold seconded by Mrs. Pat Snyder to adjourn the meeting. The motion carried and the meeting was adjourned at 8:13p.m.

Respectfully submitted,

Ms. Carolann Moody  
Recording Secretary