

EASTTOWN TOWNSHIP BOARD OF SUPERVISORS BUSINESS MEETING MINUTES OF JANUARY 15, 2018

The January 15, 2018 Business Meeting took place in Hilltop House at 570 Beaumont Road, Devon and was called to order at 7:00 p.m. Supervisors present included: Marc J. Heppe, Chair; Betsy Fadem, Vice Chair; Christopher D. Polites; and James W. Oram, Jr. Also attending were Dan Fox, Township Manager; Eugene C. Briggs, Jr., AICP, CZO; Dave Obzud, Police Chief; Karen Wertz, CPA, Finance Director; Kate Jones, Administrative Coordinator; and Andrew D. H. Rau, Esquire, Township Solicitor.

Chairman Heppe began the meeting by explaining why the Township is now open on Martin Luther King, Jr. Day, which is the date of tonight's meeting. As part of union negotiations and moving forward, the Township Offices will be open on Martin Luther King, Jr., Presidents', and Veterans' Days.

MINUTES

Mr. Polites made a motion to approve the minutes from the January 02, 2018 Organizational and Business Meetings. Mr. Oram seconded the motion. Mrs. Fadem made one minor correction regarding a member's title and Chairman Heppe opened the floor to the public. There were no comments. The Chair called the vote. The motion unanimously passed with Mrs. Fadem's correction.

ANNOUNCEMENTS

Chairman Heppe read the following announcements:

There will be a Special Planning Commission Meeting regarding the Comprehensive Plan on Wednesday, January 17, 6 pm at Beaumont Elementary School.

The following public meetings will be held at the Township Building unless otherwise stated:

- Parks and Recreation Board on Tuesday, January 16, 7 pm
- Zoning Hearing Board on Tuesday, January 16, 7 pm at Hilltop House
- Library Board on Wednesday, January 17, 7 pm at Easttown Library
- Citizens Advisory Committee on Tuesday, January 23, 6:15 pm
- Next Board of Supervisors meeting on Monday, February 05, 7 pm

LIST OF BILLS

Mrs. Fadem made a motion to approve the list of bills totaling \$495,447.54, with warrants in the amount of \$356,417.81 and payroll in the amount of \$139,029.73, date ending January 12, 2018. Mr. Oram seconded the motion. The Board questioned the staff on miscellaneous aspects of the bills and Mrs. Fadem requested a list of annual fees paid to technology vendors. Chairman Heppe opened the floor to the public and there were no comments. The Chairman called the vote. The motion passed unanimously.

BOARD VACANCY

Brandon Adams, who won the election in November of 2017 for one of two vacant at-large township supervisor seats, is unable to serve. As determined by Pennsylvania's second class township code, the Board of Supervisors appoints a resident to the vacancy created, who will then serve as an appointed Supervisor until the local election in 2019. The Board has 30 days to make this appointment and the new Supervisor will be sworn in prior to the first public meeting of the Board of Supervisors in February of 2018.

On behalf of the Board, Chairman Heppe thanked the eight residents who expressed interest in the open Board of Supervisors position and named them: Michael Wacey, Karl Romberger, Michael Tierney, Michael DiDomenico, Christopher Debbas, Frederick Bruno, and Alessandra Nicolas. He also thanked the citizens who sent correspondence expressing their opinions regarding this item. Chairman Heppe then expressed his concern that the Easttown Democratic Committee did not alert voters as soon as it knew Mr. Adams could not serve in the position.

Mrs. Fadem made a motion to appoint Michael Wacey to the Board. Mr. Oram seconded the motion. Chairman Heppe opened the floor to the Board.

Mrs. Fadem stated the following: "I appreciate the residents that submitted letters of interest and resumes for the vacant Easttown Supervisor position. According to PA Municipal Code, there are two qualifications required for appointment to Supervisor; the individual must 1) be willing to serve and 2) reside in the township for one year prior to the appointment. As far as I can determine, all of the applicants met those requirements. I sincerely hope that all of you stay interested in Township business and continue to volunteer where you time and talent allow. I am honored to serve in this capacity of Supervisor and am thankful for the confidence the community showed me in this past election. Based on those election results, I firmly believe that the vacancy appointment should reflect the decision of our voters. In this case then that would mean appointing Mr. Michael Wacey. If for any reason this is not reflective of what the voters want, our actions will be corrected in less than 15 months in a local Primary Election and again in 22 months in the General Election. If this motion is approved I look forward to serving with Mr. Wacey and wish him the best."

Mr. Polites stated the following: "First I would like to paraphrase former President Obama after the 2014 midterm elections. After he congratulated the opposing party he said to everyone who voted, 'I want you to know I hear you. And to the two thirds voters who did not participate in the process I hear you too.' In essence he was saying he represents all Americans. I in turn as a Supervisor represent all the residents in Easttown Township. It is my sworn duty and oath of office. In the November elections there were two winners, period. One of whom for personal reasons could not serve. This left us with a vacancy. By law it is up to the remaining Supervisors to appoint someone to fill that vacancy. I take this responsibility very seriously because I want to do what is right for all the residents of Easttown. So I looked at the resumes focusing on those who not only has the credentials and the work experience necessary to do the job, but one who has also volunteered to serve on our many Township Boards and Commissions demonstrating their commitment to our Township. After all, we all share the same aspirations. We want to have a great

community to live in where we can raise our children and for some of us to retire. That is the criteria I have used to make my decision.”

Mr. Oram stated the following: “First, I want to thank you for your time and interest tonight as we vote on appointing a supervisor to fill the vacancy created by the inability of Mr. Brandon Adams to serve, which, of course, was discovered after the election. This decision has been very difficult for me for two reasons. First, I believe national issues polluted our local debate and drew focus away from what is important to our community in this past election. Tonight’s decision was again made more difficult because during our search for Mr. Adam’s replacement, we were made aware of many highly qualified candidates who demonstrated both the experience and the interest to serve. The unprecedented success of this township is the result of pragmatic governance founded primarily on financial sustainability and fiscal responsibility. We are a community and we may have different opinions about local issues, but I hope we all have each other’s best interests at heart. Local elections are about local issues. Be we Republicans or Democrats, I expect this sense of community to extend into the future as we work together to solve Township issues. I respect the democratic process and the will of the residents of the Township. The voters went to the polls on November 07, 2017 and made their choices. Michael Wacey has demonstrated his interest in the job both prior to the election and during the selection process. It is this level of commitment to local issues that we will need from him going forward. He is a qualified candidate and the people have spoken.”

Lastly, Chairman Heppe stated: “Over the past the week I have received numerous emails from residents asking me to do the right thing. To me, the term doing the right thing has different interpretations dependent on the perspective of the person who is using it, so I decided to investigate what it means to do the right thing. The expression gets its power in the shades of meaning that the word right has in the English language. To do the right thing means to make a choice – there are a lot of possibilities – in favor of something. For me, it means to make a choice for all the residents on the Township for whom I represent and not just for those who elected me or even those who who represent a small portion of the Township. The result of that is that I need to do the right thing for the greatest amount of people.”

Chairman Heppe opened the floor to the public.

Mary Ann Piccioni, of 1504 Pennsylvania Avenue, stated that the Easttown Democratic Committee was not covert in its actions during the election process and that Mr. Adams could not change the ballot because he learned that he would be unable to serve after the County’s deadline to withdraw. She also submitted online and handwritten petitions that were circulated in support of Michael Wacey and added that there were over 300 signatures of both residents and non-residents.

Margaret D’Alessandro, of 610 Clovelly Lane, expressed concern over Board comments implying that the Township is largely Republican and stated that the Township’s registered voters in the Township are approximately fifty percent Republican and fifty percent Democratic and Independent. She also stated that she believed the election results reflect the qualifications of the candidates and that Mr. Wacey is the next best qualified person for the position.

Elaine Jenkins-Wacey, of 1049 Beaumont Road, stated that she is Mr. Wacey's wife and that they have lived and raised their children in the Township for twenty one years. The results of the last election, she said, reflect Mr. Wacey's qualifications and the hard work he put into campaigning.

Karl Romberger, of 323 Lenape Drive, stated that he is one of the applicants under consideration for the vacant position. He said he is not a political person but this community is very important to him. He added that he accepts any decision made by the Board because it is comprised of honorable people who serve the community.

Sue Laskin, of 156 Greenville Court, asked why the Board would solicit additional candidates if there was a qualified one already on the ballot. Chairman Heppe responded that the appointment decision is a prerogative of the Board as dictated by Pennsylvania 2nd Class Township Code and that members want to consider all interested residents to best serve the community. Mr. Polites added that the 2nd class code is clear in that there were two winners in the election and that the Board is obligated to appoint a candidate since one winner cannot serve.

Tom Aichele, of 446 Green Hill Lane, clarified that this is not a new or unique situation in that the Board has appointed candidates before to vacant positions, but that the proximity to the election in this case confuses things.

John Murphy, of 1132 South Leopard Road, stated that while he understands Mr. Heppe's and Mr. Polite's comments regarding procedure, he thinks that the Board should put more weight on Mr. Wacey given that he was the one who took the risk and the effort to run for the position.

Ms. D'Alesandro stated that she fully respects Township by-laws but would like the Board to consider the petitions signed in favor of Mr. Wacey. She submitted them for the record.

Michael Wacey, of 1049 Beaumont Road, stated that over the past year he has met a lot of residents

Chairman Heppe requested a roll call for the motion on the table to appoint Mr. Wacey to the Board vacancy. Mrs. Fadem voted yes. Mr. Polites voted no. Mr. Oram voted yes. Mr. Heppe voted no. Because this is a tie and there is no action, Mr. Rau explained that it is up to the Board whether or not to make a motion to appoint another person to the vacant position.

Mr. Polites made a motion to appoint Karl Romberger to the Board of Supervisors. Mr. Heppe seconded the motion. Chairman Heppe opened the floor to the Board.

Mrs. Fadem made a motion to defer this motion until there has been more time to consider this candidate. No one seconded the motion and there was no action taken.

Mr. Polites stated that Mr. Romberger is well-qualified and has served on the Easttown Library Board for seven years.

Mr. Oram had no comments.

Mr. Heppe stated that he feels Mr. Romberger has been a valuable volunteer for the Township and the community and that he is well-qualified for the position.

Mrs. Fadem reiterated her previous statement by saying that “based on election results, I firmly believe that the vacancy appointment should reflect the decision of our voters. In this case then that would mean appointing Mr. Michael Wacey.”

Chairman Heppe opened he floor to the public.

Ms. Jenkins-Wacey and Ms. D’Alessandro restated their support for Mr. Wacey and that he had put in the effort to run a campaign for the position. Ms. D’Alessandro also added that if the Board is going to use volunteer positions as a litmus test for being appointed to an elected position, that the Board should change the way it makes appointments to volunteer positions.

Joan Bergquist, of 217 Devon Boulevard, stated that she believed Mr. Wacey has professional expertise that makes him the best candidate for the position.

Kristine Adams, of 567 Foxwood Lane, stated she believes that the voters have spoken and that Mr. Wacey is the appropriate candidate for the vacancy.

Donald Laskin, of 156 Greenville Court, said that Mr. Wacey is the only candidate up for the position who has shown long-term interest and that he has talked to and understands the needs of the residents.

Paul Steege, of 67 Lakeside Avenue, expressed concern that the Board is not taking the 2017 local election results seriously enough and their decision making process appears disingenuous. Regarding the fact that Mr. Wacey has run for the position before and lost, he added that some election results should not matter more than others.

Sean Axel, of 71 Lakeside Avenue, added that he does not believe that this past election is an aberration and the will of the voters should be taken seriously.

Francis Reardon, of 1505 Greenlawn Road, expressed his support for Mr. Wacey and stated that he knows him personally.

Louise Story, of 2060 Buttonwood Road, asked the Democratic party members in the audience why they did not alert voters as soon as it knew Mr. Adams could not serve in the position.

Mr. Wacey again expressed his interest in the position adding that he has tried for years to volunteer for positions with the Township and failed due the Board's appointment procedure.

Chairman Heppe requested a roll call for the motion on the table to appoint Mr. Romberger to the Board vacancy. Mrs. Fadem voted no. Mr. Polites voted yes. Mr. Oram voted yes. Mr. Heppe voted yes. With a vote of 3-1, Karl Romberger the Board appointed Karl Romberger to the vacation position of the Board of Supervisors.

PUBLIC HEARING

Chairman Heppe adjourned the regular meeting and convened the Public Hearing regarding Ordinance 2018-433: Proposed Code Amendments.

Mr. Briggs updated the Board on this item. The Township last completed a comprehensive code update in December 2014. Since that time, the Board has adopted various time-sensitive amendments to the Code of Ordinances that include increasing the threshold for when a Drainage Permit is required, enacting the Devon Center Overlay District, enacting the Floodplain Ordinance, and adopting on-street loading and unloading regulations.

In an on-going effort to improve the Code of Ordinances, Township Staff and Consultants have been keeping track of amendments necessary to remove inconsistencies, clarify ambiguous text, and amend provisions that regularly require property owners to seek and recent relief from the Zoning Hearing Board. The most notable amendments are:

1. Creating a new Alcoholic Beverages Chapter that establishes open container laws. This is a Police Department recommendation in response to allowing Outdoor Cafes on sidewalks. These regulations are typical for municipalities that allow outdoor dining in public spaces.
2. Replacing Chapter 313 Peddling and Soliciting with updated language to reflect changes in the law. This is a Township Solicitor recommendation in response to text contradictions and to changes to case law.
3. Not allowing townhouse and twin dwellings to be built on a side property line within the Village Transition (VT) Zoning District, unless they are attached to an adjacent building built on a side property line. This change was requested by the Township Planning Commission based upon lessons learned when first applying the VT Zoning regulations to a recent townhouse development.
4. Allowing 5-foot high fences and 6-foot high solid fences with the top 1-foot being 50% open in front yards when set back a minimum of 5 feet from the right-of-way line and 6-foot high fences in front yards when set back a minimum of 10 feet from the right-of-way line. This change is proposed to address Zoning relief regularly granted by the Zoning Hearing Board

5. Allowing Outdoor Cafes on sidewalks within the Village Business and Planned Business Office Zoning Districts as by-right accessory uses to restaurants when operational requirements are met. This change was requested by a restaurant owner to make the Township permitting process easier for restaurants to offer outdoor dining options to patrons.
6. Making procedural edits that are consistent with the Pennsylvania Municipalities Planning Code (MPC). These changes were suggested by the PC Solicitor to ensure that Township procedures precisely follow State requirements.
7. Removing requirements/regulations from the various Zoning definitions. These changes were suggested by the Planning Commission Solicitor to keep Zoning regulations separate from the definitions to keep regulations in their respective parts of Zoning.

In accordance with the MPC, the proposed amendments for the Subdivision and Land Development Chapter and Zoning Chapter, were provided to the Planning Commission and Chester County Planning Commission (CCPC) for review and comment.

Mrs. Fadem made a motion to adopt Ordinance 2018-433. Mr. Polites seconded the motion. After discussion, Chairman Heppe opened the floor to the public. Louise Story, of 2080 Buttonwood Road, stated her concern regarding fencing. The Chairman called the vote. The motion passed unanimously.

SUPERVISOR LIAISON REPORTS

Chairman Heppe tabled this item.

DEPARTMENTAL REPORTS

Ms. Wertz, Finance Director, outlined the contents of her memo, dated January 15, 2018. After discussion, Chairman Heppe opened the floor to the public and there were no comments.

Mr. Briggs, Director of Planning and Zoning, reviewed the contents of his memo, dated January 10, 2018. After discussion, Chairman Heppe opened the floor to the public and there were no comments.

Chairman Heppe asked if the Board or the public had questions or issues for Chief Obzud, and there were none.

NEW BUSINESS

Appointments to the Library Board

Mrs. Fadem made a motion to appoint Albert J. Graham, term expiring December 31, 2018 to the Library Board. Mr. Polites seconded the motion. After discussion, Chairman Heppe opened the floor to the public. Chairman called the vote. The motion passed unanimously.

Mrs. Fadem made a motion to appoint Anita Y. Cason Friday, term expiring December 31, 2019 to the Library Board. Mr. Polites seconded the motion. After discussion, Chairman Heppe opened the floor to the public. The Chairman called the vote. The motion passed unanimously.

OLD BUSINESS

None

PUBLIC FORUM

None

ADJOURNMENT

The meeting adjourned at 8:39 pm.

Respectfully submitted,

Kate Jones
Assistant Township Secretary