

**MINUTES OF THE ADJOURNED MEETING NOVEMBER 26, 2018
OF THE MT. LEBANON COMMISSION**

The Commission of Mt. Lebanon Pennsylvania held an Adjourned Meeting at 8:00 P.M., on Monday, November 26, 2018, at the Municipal Building. Commission Vice President Steve McLean called the meeting to order and led in the Pledge of Allegiance to the Flag. Manager McGill called the roll. Present were Commissioners John Bendel, Kelly Fraasch, Craig Grella, and Steve McLean. Commissioner Steve Silverman participated via the phone. Also present were Assistant Manager McMeans, Police Chief Lauth, Public Works Director Sukal, Recreation Director Donnellan, and Assistant Fire Chief Daniels. Also present were Phil Weis of the solicitor's office and Dan Deiseroth of the engineer's office.

COMMISSION/MANAGER'S ANNOUNCEMENTS

Manager McGill summarized the information that was reviewed during the discussion session, including an update on the public works project and review of the sanitary sewer later testing ordinance. Due to time constraints, the item pertaining to forestry service requests was not heard; therefore, it will be placed on the December 11 discussion session agenda.

Manager McGill stated that prior to the meeting, the Commission met in executive session to receive legal advice from the solicitor on various legal issues, as well as discussed appointments to boards and authorities and conducted the annual manager's performance review. The next regular Commission meeting is scheduled for Tuesday, December 11, 2018, at 8 p.m. The discussion session will also begin at approximately 6:30 p.m. in Room C. The final budget workshop is scheduled for Monday, December 3, at 6 p.m. in Room C. A second public hearing on the 2019 budget is scheduled for Tuesday, December 11.

Mr. McLean stated that we hope everyone had a wonderful Thanksgiving and enjoyed the extended weekend. He noted that the final budget hearing is scheduled for December 11, stating that the proposed budget is on our website where it may be viewed. He stated that Beverly Bright Night is scheduled for Thursday, December 6, at 7 p.m. The road will be closed down, and there will be activities for children and their families.

JUNIOR COMMISSIONER AOIFE RUBY DUNNE COMMENTS

Ms. Dunne stated that Mt. Lebanon School District is on the rise. Mt. Lebanon recently received our composite of SAT scores for the class of 2018, and grades have consistently increased, adding that 81.2% of the class took the SATs. She stated that Mt. Lebanon science teacher and resident Josh Bilek will describe how cutting edge technological breakthroughs will be leading to another industrial revolution. This will be held next week in conjunction with the library. She also spoke about various class projects where students donate food and money to help struggling families.

CITIZEN COMMENTS

Bill Hoon of 456 Coolidge Avenue spoke about bullets and arrows, stating that he believed a dead deer found on Washington Road was killed as a result of an arrow and not a vehicle.

Pete Halesy of 614 Briarwood Avenue stated that Briarwood steep hill that is a cut-through street, and there is an issue with speeding vehicles. He inquired as to placing a fourth stop sign at an intersection that already has three stop signs. Mr. McLean advised him to email him with the information, and he would forward it to the traffic board.

Dave Egler of 121 Poplar Drive stated that when a deer ran into the side of his vehicle a few years ago, he did not see it, therefore, he did not put on his brakes until after the deer hit him. At that point, he slammed on the brakes, but there weren't any skid marks, stating that it's not uncommon to not have skid marks especially if a vehicle has anti-lock brakes. He also commented on the remarks made during the discussion session about the barn structure at the public works site, noting that the old Rollier's Hardware on McFarland Road is in the shape of a barn. He said that the salt storage facility is functional, and in time, the trees should block the view. He also spoke about the discussion on the walking trails at the public works site, noting that he's been asking for walking trails on Pennsylvania Boulevard for years. He asked the municipality to consider purchasing 17 delinquent properties in order to make a walking trail next to the development on Pennsylvania Boulevard, noting that residents of this area do not have a park in the vicinity.

Walt Henry of 719 N. Meadowcroft, president of Indoor Tennis for Mt. Lebanon, and a member of the Sports Advisory Board, stated that Indoor Tennis started in 1967 and has an agreement with the municipality to provide courts for Indoor Tennis seven of 12 months. He stated that Indoor Tennis has provided the municipality with funding in the amount of \$1.3 million for improvements over the past 20 years. He stated that tennis improvements are in the capital improvement budget for \$120,000, and Indoor Tennis is committed to splitting the cost with the municipality and paying for half of it. He noted that tennis is a sport for a life time.

**CONSIDERATION OF THE MINUTES FROM THE
REGULAR MEETING HELD NOVEMBER 13, 2018**

Mr. Grella moved and Ms. Fraasch seconded to approve the minutes. The vote was called. The motion carried unanimously.

**INTRODUCTION OF ORDINANCE (BILL NO.14-18)
ESTABLISHING COMPENSATION FOR EMPLOYEES FOR 2019**

Ms. Fraasch said this ordinance establishes the pay rates and levels for employees, including those covered by collective bargaining for 2019. It also sets hours of work and overtime, longevity and fringe benefits.

Ordinance (Bill No. 14-18) was introduced.

**CONSIDERATION OF ORDINANCE (BILL NO. 11-18)
AMENDING THE 2018 BUDGET FOR REVENUE
AND EXPENDITURES NOT ANTICIPATED IN THE 2018 BUDGET**

Mr. Bendel said the following adjustments are proposed:

General Fund

Revenue:

Use of Fund Balance	\$	794,030
	\$	<u>794,030</u>

Expenditures:

Server Battery Backup	\$	15,980
Cable Television System		18,810
2019 Police Vehicle Replacement		99,240
2018 Vehicle Purchases (Opted not to Lease)		96,150
Transfer to Capital Projects Fund		563,850
	\$	<u>794,030</u>

Capital Projects Fund

Revenue:

Transfer from General Fund	\$	563,850
Use of Fund Balance		96,150
N. Wren Traffic Signal Project (Contributions)		90,000
N. Wren Traffic Signal Project (Grant)		220,000
	\$	<u>970,000</u>

Expenditures:

N. Wren Traffic Signal Project	\$	310,000
Public Works Facility Additional Funding		660,000
	\$	<u>970,000</u>

This ordinance was introduced on October 22, 2018, and the public hearing was held November 13, 2018.

Mr. Bendel moved and Ms. Fraasch seconded to enact Ordinance (Bill No. 11-18). The vote was called. The motion carried unanimously.

**CONSIDERATION OF RESOLUTION NO. R-20-18 FOR THE
NON-REIMBURSABLE COST-SHARING
AGREEMENT TO ADJUST SANITARY MANHOLES ALONG KELSO ROAD**

Mr. Bendel said the Pennsylvania Department of Transportation (PennDOT) has requested the Municipality prepare and sign a Resolution and enter into a Non-Reimbursable Cost-Sharing Agreement to have its contractors adjust the sanitary manholes along Kelso Road, during the upcoming PennDOT resurfacing program. The Municipality will provide new manhole frames and lids, and PennDOT's contractors will perform the labor required to raise the manholes to grade. The Municipality will be responsible for materials only.

Mr. Bendel moved and Ms. Fraasch seconded to adopt Resolution No. R-20-18. The vote was called. The motion carried unanimously.

**CONSIDERATION FOR THE ADJUSTMENT TO
FINANCIAL SECURITY POSTED FOR UPTOWN PLACE PROJECT**

Ms. Fraasch said Rolling Lambert Building Company has requested to reduce the financial security posted for improvements installed for Uptown Place development by communication dated November 19, 2018. The request includes a reduction in the amount of the security posted for work that has been completed to date. The request has been reviewed and verified by the Municipal Engineer, and he is recommending approval of the reduction of financial security posted from \$147,630 to \$22,720 for a reduction of \$124,910.

Ms. Fraasch moved and Mr. Grella seconded to decrease the financial security posted for improvements for the Uptown Place development project from \$147,630 to \$22,720 for a reduction of \$124,910. The vote was called. The motion carried unanimously.

CONSIDERATION OF A REAPPOINTMENT TO THE HOSPITAL AUTHORITY

Mr. Bendel moved and Ms. Fraasch seconded to reappoint Todd Zerega of Valleyview Drive to another five-year term ending December 31, 2023. The vote was called. The motion carried unanimously.

CONSIDERATION TO FILL AN UNEXPIRED TERM ON THE PLANNING BOARD

Mr. Grella moved and Ms. Fraasch seconded to appoint Clint Rounsfull of Washington Road to fill an unexpired term ending March 31, 2021. The vote was called. The motion carried unanimously.

**CONSIDERATION TO FILL AN UNEXPIRED
TERM ON THE ECONOMIC DEVELOPMENT COUNCIL**

Mr. Bendel moved and Ms. Fraasch seconded to appoint Valerie Fleisher of Questend Avenue to fill an unexpired term ending March 31, 2021. The vote was called. The motion carried unanimously.

**CONSIDERATION OF FINAL APPROVAL OF THE RESIDENCES AT
POPLAR LOT CONSOLIDATION PLAN AND LAND DEVELOPMENT PLAN**

Mr. Grella said that this is a request for final approvals for the Residences at Poplar Lot Consolidation Plan and for the Land Development Plan. G&B Consulting Partners, LLC has equitable interest in a property located on an unopened section of Pennsylvania Boulevard.

With regard to the Lot Consolidation Plan, the developer is requesting approval to consolidate four parcels currently identified as lot and block 192-C-23, 192-C-24, 192-C-30 and 192-C-32 in the Avondale Plan of Lots.

The Planning Board reviewed the plan at its September 25, 2018 meeting and recommended final approval subject to the comments in the Engineer's Review Letter.

With regard to the Land Development Plan, the developer is requesting approval to construct 13 townhouse units on Pennsylvania Boulevard. The developer would also be responsible for construction of a road improved to municipal standards including sidewalks and utilities to serve the proposed units.

At its meeting on September 25, 2018, the Planning Board recommended against final approval for the Residences at Poplar Land Development Plan based on the recommendation of denial of the waivers and modifications listed as A, C, D, E, F, G in the Gateway review letter dated September 20, 2018. The Planning Board further recommended that if the Commission does vote to grant final approval to the Residences at Poplar land development plan, additional conditions should be placed on that approval. The requested waivers and modifications to Chapter XVI, *Subdivision and Land Development*, along with the additional conditions recommended by the Planning Board, have been provided to the Commission in a supplementary memo.

The Commission heard a presentation and comments from the developer and interested residents regarding the lot consolidation plan and the land development plan. The Commission has decided to hear all comments at one time because the two applications deal with the same property.

Michael Parrish, attorney for G & B Consulting Partners, who is the developer for this proposed project, stated that Chris Peters, civil engineer from McIlvried, DiDiano & Mox, LLC., and Bill Stoltz and Michael Eveses, the owners of the property, were also in attendance. He noted that this is a land development approval request, and preliminary plan development approval was granted pursuant to the June 26, 2018 meeting. By a letter dated June 27, 2018, the owners were apprised that preliminary plan approval was granted. He stated that according to the MPC, the first stage is preliminary plan approval, and the second stage is final plan approval. He stated that according to the law, once the developer receives preliminary approval, he is entitled to have his final land development approved as long as the final plan is substantially the same as the preliminary plan approved. He said that when the final plan was submitted to the planning board on September 25, 2018, the board recommended against granting final plan approval. He believes they used the wrong standard in achieving that result. He stated that there were modifications listed in the preliminary and final plans, and when the planning board approved the preliminary plan, it was aware that the developer was requesting specific modifications from the ordinance. He noted that in the September 26, 2018 letter from the planning board, they recommended that the commission deny the modifications requested by the developer.

Mr. Parrish stated that in *Ruff vs. Buckingham Township*, the issue was whether or not the municipality had improperly refused modifications. In that case, the municipal engineer had recommended that the modifications be granted. In this case, Mt. Lebanon's engineer, Gateway Engineers, has also recommended the modifications for this project be approved. He stated that the municipal engineer has reviewed the plan, and the planning board has reviewed the plan, and they have all found that this plan satisfies the ordinance requirements.

Chris Peters stated that the property in question is several parcels, and they want to consolidate them into one parcel. With respect to the land development, we have a use by right, and the property was granted a dimensional variance to allow for 13 units. He reviewed several comments that Gateway Engineers made in a November 21, 2018 memorandum. He stated that with respect to the issue of whether there were wetlands on the property, he was unaware that there were any

wetlands. The developer has engaged a wetlands consultant, who has not been able to conduct a wetlands evaluation because of the weather.

Mr. Parrish presented a PowerPoint presentation of the proposed development, reviewing waivers and modifications. In summary, Mr. Parrish stated that this development meets municipal guidelines and standards, satisfies a market need for new construction, attracts new homeowners/community members, offers transit-oriented residential options, provides a new roadway at no cost to the municipality, raises property values, and generates \$200,000 in annual local tax revenue.

Mr. Bendel inquired about a straight curb vs. a rounded curb on the road. Mr. Peters stated that there are dimensional constraints with the slope, the guiderail, and the proximity to the Port Authority property.

Mr. Bendel inquired about stormwater management. Mr. Peters stated that they looked into an underground retention area onsite, but it is not suitable to do extensive infiltration since there is rock and limestone under the area. He stated there is room underneath Pennsylvania Boulevard that can detain the impervious runoff from the road. He noted that there is some stone detention on the property plus impervious pavement that will provide substantial water detention for the on lot improvement.

Mr. Parrish submitted several exhibits for the record, including Exhibit 1, the September 26, 2018 letter from Mt. Lebanon where the planning board reviewed the final application; Exhibit 2, the Gateway Engineers letter dated November 21, 2018 recommending all of the requests for modifications be granted, and also that the developer has agreed to accommodate the general comments of the engineer; Exhibit 3, the Mt. Lebanon letter dated April 26, 2011, a submission for essentially the same plan made seven years ago, and attached is an ordinance permitting the plan; Exhibit 4, a photograph of the existing site, where the municipal sign is enforcing parking regulations on this section of Pennsylvania Boulevard; Exhibit 5, the dedication of lots that occurred in 1908 identifying Pennsylvania Boulevard in the Avondale Plan of Lots; and Exhibit 6, the June 27, 2018 decision of the planning board in which they reviewed and granted preliminary land development approval for this plan.

John Koenig of 433 Ashland Avenue believes a precedent would be set for other developers if this one is granted. He stated that he fully supports development and growth, but the 13-unit building was not right for this site or neighborhood. He equated it to forcing a square peg into a round hole. He said this is a prime piece of real estate, and whatever is developed, should be in line with the site characteristics in mind. He said that it should also be designed to meet the codes, ordinances and standards mandated by local jurisdictional body. He spoke against the zoning hearing board granting a variance on April 2, 2018.

Jess Murphy of 343 Ashland Avenue spoke against this development, stating that the developer requires 13 units to make a profit. She believed the project was too big and would risk erosion. She asked that the commission deny the modifications. She stated there's nowhere to park on the street, and there will be an additional minimum of 26 vehicles if this development is built.

Donald Mosshart of 349 Ashland Avenue stated that the project does not fit. He spoke about stormwater management, the size of the cul-de-sac, the lack of parking on the street, no room for

on-street parking, no rear access unless you walk through the house, neighborhood characteristics, the code, trees (including that over 100 trees will be removed from the property), and contingencies including excavated materials on the streets.

Lisa Barnes of 274 Pennsylvania Boulevard thought this development would set a bad precedence for density, stormwater management, and cul-de-sacs, stating there are too many variances, basically changing the code to meet the project. She believed this property was going to become another eye sore. She also didn't feel the units would be financially feasible.

Bill Powers of 305 Ashland Avenue expressed collective opposition for the development. He stated that this proposal has engaged and activated the community and neighborhood. Residents have written letters to the municipality, the EPA, Port Authority, the commissioners, etc., expressing disapproval of this development, in addition to attending several meetings. He stated that there is a petition against this project with 250 signatures. He stated that the developer has not addressed the concerns of the neighbors. He stated that the development being proposed doesn't reflect the esthetics of single and duplex housing that's predominant in the neighborhood.

Tammy Ribar, attorney to Dan and Karen Earley of 322 Pennsylvania Boulevard, stated that the Earley's own two parcels on Pennsylvania Boulevard immediately adjacent to the proposed development, stating that they are the ones who are most impacted by the project. She stated that the testimony of the developer has been premised on a flaw, stating that Pennsylvania Boulevard is not a public street, and that has significant legal consequences. She stated that Pennsylvania Boulevard was developed in 1908 in the Avondale Plan of Lots, but it has never been dedicated for public use and accepted by Mt. Lebanon as part of the public street system. She said that the parking enforcement sign doesn't change its status. She stated that there is a statute stating any street in a recorded plan which does not become dedicated within 21 years after its creation, cannot be opened without the consent of all of the lot owners in the plan. She stated that the Earley's will not give consent for the opening of Pennsylvania Boulevard. She said that it is considered a paper street, and according to a 1954 Supreme Court decision on *Rahn v. Hess*, once the 21 years passes, title to the center line of the paper street reverts to each property owner that abuts it on each side. She also stated that shade trees were proposed to be installed on the opposite side of the street, noting that the area is not owned by the developer, which again would require consent. She also stated that paving by the developer cannot be done by Mt. Lebanon because Mt. Lebanon no longer has rights to install paving on Pennsylvania Boulevard. She stated that this project infringes on the property rights of the people on Pennsylvania Boulevard.

Ms. Ribar submitted for the record a letter dated September 24, 2018 addressed to Ian McMeans with copies of the statute, Mr. and Mrs. Earley's deed, a copy of the plan, a copy of the *Rahn v. Hess* decision, and a follow-up letter dated October 30, 2018 which she sent directly to the developer.

Dan Earley of 322 Pennsylvania Boulevard stated that the proposed development is not like anything existing within the neighborhood. He discussed R-3 zoning, saying that the district requirements are intended to preserve, promote and protect the quality of urban residential living by unobstructed front yards, pedestrian scale streetscapes, and building scale to be compatible with the neighborhood. He asked that the Commission not approve consolidation of the property nor the project.

Karen Earley of 322 Pennsylvania Boulevard presented a video of the neighborhood.

Alexandra Gruber of 305 Ashland Avenue stated that they are collecting signatures of residents who oppose this development. She submitted the petition containing 260 signatures. She stated when they met with the developer, he didn't answer some of their questions.

Bridget Watts of 275 Ashland Avenue spoke against the project, speaking about the wetland area, stating that she did consult with a private ecologist who confirmed there are cattails on this property. She also spoke with the EPA about this issue. She added that she loves Mt. Lebanon, has lived all over the country, and she's never been somewhere where houses are so different. She said that Mt. Lebanon is special, and she doesn't want the ambiance broken within the community. She also spoke about safety in this area.

Ryan Watts of 275 Ashland Avenue spoke against the project, believing it would make the area unsafe for walking to and from school.

Emily Watts of 275 Ashland Avenue said that there would be more cars, which would be dangerous.

Jesse Janay of 317 Ashland Avenue stated that he loves living in Mt. Lebanon. He spoke about various issues with the proposed project. He stated that they do not object to development, just something as massive as what is proposed. He stated that four duplexes would fit in well with the neighborhood; 13 townhouses do not meet the code.

Bill Carlson of 1485 Mohican Avenue stated that they had a similar proposed development involving a nursing home in his neighborhood, stating the building did not fit in with the existing neighborhood. He also said they would have to cut into the hill, and the neighbors feared a cave-in or erosion.

Mike Eveges of 105 Markham Drive, owner of the property in question, stated that he is a professional engineer who has done some small construction projects in Mt. Lebanon over the last 15 years. He stated that he has always tried to live his life in an honest manner with integrity, treating people fairly just as he wants to be treated fairly. He said when he proposed a similar project 10 years ago for this property, he met with municipal officials, and it received unanimous approval from the planning board and commissioners. Unfortunately, because of the recession, the project never made it to fruition. When he decided to propose the project again, he wanted a developer who had integrity and would follow the rules. Mr. Stoltz has met regularly with the municipal land use group, seeking their direction and guidance. He stated that this is an R-3 property, and it does meet all of the requirements, adding that a very minor variance was granted. Having proceeded in good faith, he believes Mr. Stoltz is entitled to approval. He assured the residents that Mt. Lebanon is a well-managed, well-regulated community, stating that we are the beneficiaries of high quality and professional management. He stated that all of the issues presented about slopes, grading, etc., have all been addressed by the engineer. He asked that the project be approved.

Mr. Parrish stated a lot of concerns heard this evening was based on a decision when Mt. Lebanon passed a zoning ordinance designating this area as an R-3, thereby permitting more density. He also spoke about speculative safety issues and other concerns, stating that until they come to

fruition, they are speculation. He said Mt. Lebanon's engineer said that the modifications should be approved. He said that the planning board has granted preliminary approval.

John Koenig of 433 Ashland Avenue stated that we are not opposed to development, adding that R-3 is subjective.

Karen Early of 322 Pennsylvania Boulevard said that 13 row houses connected is not maintaining the density scale of the neighborhood where there are single-family homes and duplexes.

Mr. Grella moved and Ms. Fraasch seconded to table the vote on final approval of the Residences at Poplar Lot Consolidation Plan the Residences at Poplar Land Development Plan to give the Commission time to consider the presentation made by the developer and comments from the public. The vote was called. The motion carried unanimously.

**CONSIDERATION OF THE EXPENDITURE
LIST FOR OCTOBER TOTALING \$4,239,546.61**

Ms. Fraasch moved and Mr. Grella seconded to approve the expenditure list for October totaling \$4,239,546.61. The vote was called. The motion carried unanimously.

DEPARTMENTAL REPORTS

Ms. Fraasch asked that the reports be received and filed.

ADJOURNMENT

The meeting adjourned at 10:30 p.m.