

Ross Township Commissioners Meeting
1000 Ross Municipal Drive
Pittsburgh, PA 15237
September 19, 2016
7:31 p.m.

COMMISSIONERS PRESENT: Jeremy Shaffer, Grace Stanko, Lana Mazur, Stephen Korbel, Jack Betkowski, Richard Avon and Patrick Mullin

ABSENT: Daniel L. DeMarco and David J. Mikec

SOLICITOR: Bonnie Brimmeier, Esq.

TOWNSHIP MANAGER: Douglas Sample

RECORDING SECRETARY: Deborah Ann Betzler

DIRECTOR OF COMMUNITY DEVELOPMENT AND BOARD LIAISON: Dominic J. Rickert

Pledge of Allegiance/Invocation

PUBLIC COMMENT ON AGENDA ITEMS - None

PETITIONS AND COMPLAINTS - None

RESOLUTIONS TO BE ADOPTED:

Resolution No. 2214 – Declaring the intent to dispose of records as set forth in the Municipal Records Manual approved December 16, 2008.

Motion to adopt made by Commissioner Mazur and seconded by Commissioner Mullin.

Motion passes – 7 to 0

ORDINANCES TO BE INTRODUCED - None

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ORDINANCES TO BE ENACTED - None

CONSENT AGENDA:

PAYMENT OF BILLS AND FINANCIAL REPORTS:

Motion to approve made by Commissioner Mullin and seconded by Commissioner Mazur.

**Motion passes – 5 to 0 with 2 abstentions
Commissioners Mazur and Stanko abstaining**

Dan Berty highlighted the financial reports, concluding that overall the revenues and the expenditures are where we expected them to be, and so far it's been a positive year for 2016.

Commissioner Shaffer requested that Mr. Berty begin including fund balances in the financial statements, and Mr. Berty agreed to do so. Commissioner Shaffer also asked if Mr. Berty could generate a report for the Board that would show the budgeted amount for the Public Works building and what the expenditures are related to that budget. Mr. Sample asked if Commissioner Shaffer wants the contract prices. Commissioner Shaffer stated yes, he wants the different contracts and how they came in plus or minus on that amount and then also how that relates to the bonds that were let minus the bonds that were repaid. Commissioner Shaffer stated he couldn't determine from what was sent if there was a surplus or if there was a negative on that whole financial transaction. Mr. Berty stated right now there is a surplus, but there are still invoices to come in and be paid, and he stated he will put that together.

Commissioner Betkowski questioned additional revenues anticipated from The Highlands development and The Block at Northway. He stated there should be significant revenues coming in from those two large developments that the Board would want to make some accounting for in their planning. Mr. Berty stated he doesn't have a handle on that right now. Mr. Sample stated he has a preliminary idea, but they are going to be very conservative with their estimate. Commissioner Shaffer stated there are two crosscurrent factors. One is the new developments adding to the tax base. The

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other one is some large property tax appeals. Mr. Berty stated as far as taxable value for the real estate in the township, it's actually gone down since the beginning of the year due to those appeals.

PLANNING COMMISSION:

Z-16-2 – Daniel Turo requesting Conditional Use approval to operate a chiropractic office on property located at 460 Lowries Run Road in an R-1 Zoning District of the 4th Ward.

Mr. Rickert read the Planning Commission recommendation as follows:

MR. RICKERT: "The Planning Commission, having reviewed this application, is of the opinion that it meets the terms as set forth in the Subdivision and Land Development Ordinance and/or the Zoning Ordinance and hereby recommends approval of the above Conditional Use application. In addition, the Lowries Run Overlay Committee hereby grants a Certificate of Appropriateness pursuant to Chapter 27, Section 1801.3, as well as establish operation hours of seven days a week, 8:00 a.m. to 6:30 p.m., in accordance with Chapter 27, Section 1803.3.A, and signage in conformance with the provisions of Chapter 27, Section 1804.P(3)."

Mr. Rickert stated that the parcels in question are two R-1 currently zoned parcels in between two C-2 districts. Commissioner Avon questioned the hours of operation; and Mr. Turo stated they are 8:00 to 6:30, three days a week. Mr. Rickert stated that to the right on the screen would be Lowries Run, and then to the left would be where the house is, which sits in a type of a dip, and you really can't see the house from Lowries Run. Mr. Rickert stated that Mr. Turo would be maintaining the appearance of a house; and under a conditional use and under the transitional provisions of the ordinance, these two parcels would be retained as an R-1 so that if he ever moves or sells the property, a 7-Eleven or something like that wouldn't be able to come into the site. Upon questioning by Commissioner Avon, Mr. Rickert stated that when Mr. Turo originally came in, he wanted to do a rezoning classification; but in order to forego any potential issues for current residents, the transitional



provisions of the zoning ordinance were used that allows, as a conditional use, this particular use next to a C-2.

Motion to approve made by Commissioner Mazur and seconded by Commissioner Avon.

Motion passes – 7 to 0

PLANNING/ZONING REDEVELOPMENT COMMITTEE REPORT:

Commissioner Korbel stated that the Chick-fil-A and First National Bank development has been given its final approval and site work has begun. The building permits are pending review for the Chick-Fil-A. FNB has yet to submit anything. Chick-Fil-A indicated that they are targeting a first quarter of next year opening.

Commissioner Korbel also stated that final approval was granted upon receipt for The Barn of a bond and an executed storm water development agreement. He also stated that this development will consist of the construction of a bridge, but there will be no customer or public access to the across-the-bridge property, the former United Methodist Church.

Commissioner Korbel stated that there was a preconference with the proposed Perrysville apartments, the property that's by the Park 'N Ride at Winter Avenue. He stated the township is anticipating receipt of an application for land development approval very soon, likely to be reviewed at the October Planning Commission meeting.

Commissioner Korbel also mentioned The Ridge at Highlands is going in front of the Planning Commission September 22 and will likely be in front of the commissioners in October. Mr. Rickert stated that will be October 3. Mr. Sample clarified that the public meeting at the Public Works Building will be the October 17 meeting, and the meeting on October 3 will be for The Ridge.

Lastly, Commissioner Korbel stated he took a tour of the Public Works building with Commissioner Mazur, Commissioner Mullin and Commissioner Stanko. He stated it's a very impressive building and

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something that the township will be proud of. He stated they're also working on a couple zoning updates, a mixed use overlay district for McKnight Road and the residential accessory structures amendment.

SOLICITOR'S REPORT -- None

RECREATION COMMITTEE REPORT:

Commissioner Mazur stated that the deadline for the magazine will be October 15. She also stated they're taking registrations for Halloween, and you can sign up for the Halloween party. She stated that the last Movie in the Park was Zootopia, and it was moved from Herge, because of the chance of rain, into the gym and was a huge success. There were about 150 people present. That was the last of the series, but possibly some will be held through the winter months in different locations.

Commissioner Mazur stated that Halloween will be celebrated October 31 from 6:00 to 8:00. The police department, the fire departments and fire police will be out driving to make sure the roads are safe. Commissioner Mazur also informed the Board that Herge was just finished this year, and there was a request from Penn State to do a survey questioning how many times residents frequent it, what they think and how they like it. Then information will be put together and brought back to the Board.

Commissioner Mazur thanked Laurel Gardens and Perrysville Fire Departments for all their help when a tree came down on Sewickley Oakmont Road. The tree went through a gas line and electric line and actually shut down the road.

Lastly, Commissioner Mazur stated they have been picking produce every single week and taking it to the Food Bank, and letters have been received saying how appreciative they are, how they love the fresh fruits and vegetables.

ADMINISTRATION/LEGISLATIVE COMMITTEE REPORT -- None

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PUBLIC WORKS COMMITTEE REPORT:

Commissioner Korbelt stated that the Board had authorized Public Works to purchase a milling machine so they could make repairs, and he stated he's gotten at least a half a dozen compliments about the machine and the work that it's done, the quality job that the guys are doing and how wonderful it is to get rid of the ugly spots in the road.

PUBLIC SAFETY/POLICE COMMITTEE REPORT -- None

PUBLIC SAFETY/FIRE/FIRE POLICE/EMS COMMITTEE REPORT:

Commissioner Mazur mentioned that on October 13 from 1:00 to 4:00 there will be an active shooter class at the Municipal Building.

MANAGER'S REPORT -- None

COMMISSIONERS' COMMENTS:

Commissioner Mullin stated that the owner of Phil's Citgo, a gas station on Perry Highway, is retiring after 45 years of being in business in Ross Township, and he asked if the Board wanted to present him a plaque or some recognition for his 45 years of service in Ross Township. Commissioner Mazur suggested a proclamation, and Mr. Sample said he would work on it.

Commissioner Stanko, referring to the apartments Commissioner Korbelt mentioned, stated that Perrysville ends at Rochester Road. Commissioner Stanko also stated that October 16 will be the Welcome Party from 1:00 to 4:00. So far they have 15 vendors and are looking for a few more. They have to be Ross Township vendors, and first come, first served. 500 new residents have been invited, and the township staff and police department and one of their dogs will be there, and local politicians have been invited to come and meet them.

Commissioner Korbelt stated that the TIF committee is meeting on Wednesday, September 28 at 4:30 here at the township building in the caucus room.

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Commissioner Avon brought up dead trees. He believes the commissioners need to be able to give all residents the same answers in response to questions about dead trees. He mentioned examples of a tree limb falling on the street, if it's over the township's right-of-way, if it's in the air. Discussion ensued as follows:

MS. BRIMMEIER: "Okay. I'm a little confused. Are you saying like, for example, if I have a dead tree on my property and I call Ross and say, 'Will you come and get rid of it?'

COMMISSIONER AVON: "No. For example, a person came up to me and pointed out a very huge limb, that if it would come down, it would kill somebody in a car.

MS. BRIMMEIER: "So it's over the road?"

COMMISSIONER AVON: "That one particularly happens to be on our right-of-way. Nick has pointed out -- I think there's been statements in the past where we've taken a stance that Ross does not own trees, and we understand that. Only maybe in our parks. But the issue is when something is over our right-of-way and could fall down --

MS. BRIMMEIER: "We should be dealing with that.

COMMISSIONER AVON: "Yes. But to date we don't have --

MS. BRIMMEIER: "A policy?"

COMMISSIONER AVON: "We don't have a policy. And I think if we went out today and you asked five people, you would get five different responses. I think we need to get together, because a lot of good points Nick has brought up and even what others have done. I don't want -- some of that opens us -- for example, if I'm taking a proactive step to guard residents, I'd also -- if something happens to a tree that I can't see -- because, let's be honest. There's a million trees in Ross. Am I liable for the fact that I didn't run and take it down immediately and get an arborist? That would cost us a fortune. So there has to be --

MS. BRIMMEIER: "Yeah, we do have a means. The township is protected by immunities. But let's say we would be put on notice of a tree branch coming out over the highway and it did fall and somebody did get hurt. We could be potentially liable for that. But absent specific notice, no.

COMMISSIONER AVON: "So I think we still need to put everything -- I think we need to put everything on the table and state

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as a uniform body, 'This is the stance Ross takes, this is what we back.'

MS. BRIMMEIER: "I think, again, that's maybe something you want to discuss in committee and then, you know, I can advise you what your parameters are.

COMMISSIONER MAZUR: "I'm glad Rick brought this up, because I had that same conversation with the same people today, because in Ross Township it's not just Ross Township roads. We also have county roads, state roads and everything else. And the problem is, for instance, mine is Rochester Road and Sewickley Oakmont. If that tree came down and there's potentially other trees that come down, if it's in a neighbor's yard or is it in the right-of-way of the state, you know, off the side of the road, who do you notify to cut that tree down? And then if it's not in the right-of-way and you drive down a road, potentially I could drive down the road and say there's three trees that will definitely come down because they're rotted. So if the state doesn't own it, we see it, then the property owner, you know --

MS. BRIMMEIER: "If it's on private property, we can notify the property owner that the tree is there, it's a potential liability and that they should take it down or contact the state and ask them to do it.

COMMISSIONER MAZUR: "Okay. So the first step would be to contact the state to tell them that it's in --

MS. BRIMMEIER: "If it's in state property.

COMMISSIONER MAZUR: -- "that right-of-way? Then you would go to the property owner. Okay. Because some of the houses, I don't think some of the people realize that it's the back of their yard, not the front of their yard, and somebody could get killed. I agree totally.

COMMISSIONER AVON: "And I got to be honest. I think there's a lot of rules -- for example, I didn't know this, that if somebody's tree limb is hanging over your property and it falls, when it falls, most people, if you ask them, would assume that it's the property owner's obligation to clean it up and fix their yard. Case law states that once it hits your yard, it's yours.

COMMISSIONER MAZUR: "It's yours.

COMMISSIONER AVON: "And it's an act of God.

MS. BRIMMEIER: "And your recourse on that is when the limb comes over your property, you can cut it even though it's the neighbor's tree.

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COMMISSIONER AVON: "That's where I'm getting. Then at that point over our roadways, when it's over our right-of-way, where do we begin with our obligation? Because right now, to be honest, we're only cutting things that are 10 feet tall because that's what they can reach. So Public Works is kind enough to go over and above and do their part. But, to be honest with you, the ones that would cause the most problems are 25 to 35 feet, and we don't have a tree cutting service or we don't have that. And I'm not suggesting -- I'm trying to find out where our obligation lies so I can answer somebody correctly.

COMMISSIONER STANKO: "Are you talking about Schars Lane, that tree that goes over the road? Is that what you're talking about?"

COMMISSIONER AVON: "There's a lot, to be honest.

COMMISSIONER SHAFFER: "I guess this is a fascinating topic. I mean, if you have, let's say, a dead tree, I mean, the branch has to emanate on someone's property. Let's say the tree was on my yard and I had a big branch that started -- maybe just the branch was dead. It started on my yard, and maybe 10 feet out it protrudes over the street. I mean, isn't it the homeowner's responsibility to cut that branch?"

MS. BRIMMEIER: "No.

COMMISSIONER AVON: "Case law states that it's not their responsibility until it fell down if it's in their yard. If it's partly in yours, then that part is yours. So it's after the fact that this is decided, not prior to. And part of that is because -- just because a tree has no green on it doesn't mean it's dead. So nobody wants to be hiring an arborist every time to determine whether that tree or the branch is dead. So I can see it's --

MS. BRIMMEIER: "It's a problem."

Discussion continued, and it was decided that the Planning/Zoning Committee will work on this topic.

Commissioner Shaffer stated that he drove by Chick-fil-A and First National Bank the day they were putting in the big orange tanks. He stated they have a lot of capacity for holding back storm water, and that will help with the flooding along McKnight Road and then further downstream.

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Commissioner Shaffer also stated that he, Commissioner Betkowski, Director Berty and Mr. Sample had a pension committee meeting earlier today. They met with Mr. Frank Burnette, who had some recommendations involving change to the investment policy statement to look at another investment class with basically private debt, looking at some semi-bond-like mechanism to try to be able to earn some additional interest rates and diversify a little bit more. The Board will hear a presentation from him next week.

Lastly, Commissioner Shaffer stated he and Commissioner Stanko and Commissioner Mikec attended at least part of the ALOM conference. He thanked Mr. Sample for giving a presentation on pension changes and how we were able to accomplish that here at Ross.

CITIZENS' COMMENTS:

Mr. Harry Armstrong, 500 Browns Lane, Pittsburgh, PA 15237, thanked Commissioner Shaffer for all the time and effort he put into setting the program up to have people from LRC speak up with the plans they had. Mr. Armstrong stated he knows it's not cast in stone, but the people he talked to felt a whole lot better. He also thanked Commissioner Betkowski and Commissioner Korbelt for being there.

Mr. Joe Zawoysky, 123 Fifth Avenue, Pittsburgh, PA 15229, discussed responsibility of trees. He also discussed the commissioners' handbook and that the commissioners are supposed to be the first problem solver. He also stated the old Ross Record had, "We are here to serve," but it's not in the new one. Mr. Zawoysky also provided a copy of a letter he sent out.

Motion to adjourn made by Commissioner Mazur and seconded by Commissioner Mullin.

Motion passes – 7 to 0

MEETING ADJOURNED AT 8:14 P.M.

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Douglas Sample
Manager/Secretary

By:

Jeremy Shaffer, President
Ross Township Board of
Commissioners

Minutes transcribed by *Deborah Ann Betzler, Court Reporter*