

SOLEBURY TOWNSHIP BOARD OF SUPERVISORS

April 16, 2019 – 6:00 P.M.

Solebury Township Hall

MEETING MINUTES

Attendance: Mark Baum Baicker, Chair, John S. Francis, Vice-Chair, Robert McEwan, Kevin Morrissey, and Dennis H. Carney, Township Manager. Mark L. Freed, Solicitor was also in attendance.
Absent: Noel Barrett

I. The meeting was called to order followed by the Pledge of Allegiance.

Audio recording device was then turned on.

II. Approval of Bills Payable – March 28, 2019 and April 11, 2019

Res. 2019-58 – Upon a motion by Mr. Francis, seconded by Mr. McEwan, the list of Bills Payable dated March 28, 2019 and April 11, 2019 were unanimously approved as prepared and posted.

III. Approval of Minutes – March 19, 2019

Res. 2019-59 – Upon a motion by Mr. Morrissey, seconded by Mr. McEwan, the Minutes of the March 19, 2019 meeting were unanimously approved.

IV. Announcements/Resignations/Appointments

- Executive Session

The Board announced an executive session held on April 16, 2019, prior to the meeting, dealing with Legal Issues.

- Mr. Baum Baicker made an announcement about the 37th Annual Bucks County Senior Games. Additional Information can be found on Bucks County's website, www.BucksCounty.org

- Appointment of Buz Teacher to the Historic Architectural Review Board

Res. 2019-60 – Upon a motion by Mr. Morrissey, seconded by Mr. McEwan, it was unanimously agreed to appoint Buz Teacher, Solebury resident, without compensation, to the Historic Architectural Review Board for the term ending December 31, 2023.

- Appointment of William Birnes to the Environmental Advisory Council

Res. 2019-61 – Upon a motion by Mr. Francis, seconded by Mr. McEwan, it was unanimously agreed to appoint William Birnes, Solebury resident, without compensation, to the Environmental Advisory Council for the term ending December 31, 2021.

- Resignation of Daniel Moser from Solebury Township Planning Commission

Mr. Baum Baicker announced the resignation of Daniel Moser from the Solebury Township Planning Commission.

Res. 2019-62 – Upon a motion by Mr. McEwan, seconded by Mr. Morrissey, the resignation of Daniel Moser from the Planning Commission was unanimously accepted.

V. Supervisors Comment

- Mr. Morrissey updated the Board with the following information regarding the reclamation of the Quarry by New Hope Crushed Stone (NHCS):
 - Most of the reclamation of the Quarry has been completed. All mining has stopped. One of two pumps has been removed allowing the water level to rise to 30-35 feet below sea level.
 - The deadline to complete reclamation was March 19, 2019.
 - The deadline was not met by NHCS.
 - The Department of Environmental Protection (DEP) drafted a consent order and agreement (COA) requesting NHCS to address the remainder of the reclamation. The COA was sent with an end date of Friday, April 12, 2019.
 - NHCS did not execute the COA.
 - The DEP is in the process of taking Compliance Actions.

Mr. Morrissey expressed gratitude to Mr. Francis for all of his time and dedication spent confirming that the reclamation is done correctly and efficiently.

- Mr. McEwan, the Board's financial liaison, recognized the 2018 Audit's completion and submission to the Department of Community and Economic Development (DCED). Mr. McEwan expressed gratitude to Michele Blood, Solebury Township's Finance Director, for a detailed job well done on a consistent basis.

Financial Highlights:

- Solebury Township had another fiscally sound year, reflecting a growing economy and continued focus on expense control. Overall, revenues increased by approximately six and six tenths percent (6.6 %) excluding capital grants and contributions. Earned Income Tax receipts were approximately ten percent (10%) higher than 2017.
 - The increased revenues and decreased operating expenses enabled the Township to transfer excess funds to the Capital Reserve Fund and the Debt Service Fund to better position those funds for future capital improvements.
 - In 2017, the Township incurred new debt to finance various capital projects. Those projects came to fruition in 2018 with the completed renovation of the Police Department Annex Building.
 - In 2018, Solebury Township enacted a small tax increase of .95 mills which enabled the Township to provide additional funding for emergency services. Twenty-four seven (24/7) ambulance coverage began in 2018.
 - In 2019, Moody's reaffirmed the Township's rating of Aa2, which slightly exceeds the US cities median of Aa3. The key credit factors included a robust financial position and a solid tax base. The credit position also reflects a small pension liability and a light debt burden.
- Mr. Francis commented about the Primrose Creek turning blue. The Township notified the Department of Environmental Protection and the Fish & Boat who are currently investigating the cause. Mr. Francis asked residents to be vigilant of any chemicals they use and discard.
 - Mr. Baum Baicker made an announcement regarding the following events held by the Township:
 - Solebury Township and New Hope held a joint check presentation event at the Free Library of New Hope Solebury.

- Solebury Township held a meeting regarding the quality of PennDOT owned roads within the Township. Those in attendance included: Dennis H. Carney, Township Manager; Mark Baum Baicker, Board Chair; State Representative Wendi Thomas; Daniel P. O'Brien from Senator Santarsiero's office; PennDOT employees; Connie Gering, New Hope Borough Council President; and Tom Carroll, New Hope Public Works.

VI. Public Comment

- Barbara Zietchick, resident, expressed concern that residents are missing important events and information due to the Township Messenger being electronic. Mr. Zietchick asked that the Township consider distributing the Messenger via the mail.
- Joseph Klicka, resident, expressed continued concern due to the septic system, leech field, and renovations, indoor and outside, at 6186 Honey Hollow Road. Mr. Klicka expressed concern regarding the Township's lack of Use & Occupancy Permit for existing structures. Mr. Freed informed Mr. Klicka that the Township has and continues to pursue enforcement actions; Bucks County Health Department has been engaged regarding the septic field; and all options are being actively researched and pursued with regards to 6186 Honey Hollow Road.
- Larry Peseski, resident, informed the Board that if the Township notifies the Bank and Real Estate Agent of the noncompliance septic fields and renovations for 6186 Honey Hollow Road then a seller's disclosure is required.

VII. Presentations – No Presentations

VIII. Public Hearing

Historic Architectural Review Board – Certificate of Appropriateness – Dennis J. Hansen (TMP# 41-004-028, 3795 Aquetong Road)

The Historical Architectural Review Board reviewed Dennis J. Hansen's application and recommended the issuance of a Certificate of Appropriateness to TMP#41-004-028, 3795 Aquetong Road, for the following:

1. Existing roof soffit to be restored, stripped and painted Benjamin Moore Super White #OC-152. There will be a four-inch stress stream panel installed to raise the roof. A new crown molding per submitted detail will be added and painted Benjamin Moore Super White #OC-152.
2. Replace existing round aluminum downspouts with new round 16 oz. copper downspouts per submitted specs
3. Install date stone to be placed in the existing recessed location per the submitted picture with the color to match the mortar. The inscription to read "A.D. 1785".
4. Replace porch columns per submitted detail and painted Benjamin Moore Super White #OC-152. Existing porch trim to be replaced with new beaded board to match existing per submitted detail and painted with Benjamin Moore Super White #OC-152.
5. Replace existing non-compliant porch wood railings with new and install wooden balusters per submitted detail and painted Benjamin Moore Super White #OC-152.
6. Modify existing wrought iron railing on porch steps with code compliant wrought iron balusters that are to be painted Benjamin Moore Black #HC-190.
7. Replace existing porch deck with Mahogany wood decking and stained with Behr Wood Stain Stonehedge #ST-125 and Behr Wood Semitransparent Waterproofing Stain & Sealer #5077.

8. Replace existing slate roof with a simulated slate by Aledora Slate with the color to be graphite per submitted spec sheets.
9. Restore existing windows and storm windows by replacing broken glass, strip and repaint existing frames, trim and sills with Benjamin Moore Super White #OC-152.
10. Refurbish the storm window hardware per submitted specs
11. Existing doors to be stripped and repainted with Benjamin Moore Super White #OC-152. New screen doors to be built to match existing and painted with Benjamin Moore Super White #OC-152.
12. Refurbish the existing hardware on existing doors and screen doors.
13. Install three gas Bevolo Governor Gooseneck, 24-inch lanterns on the south wall at the three entry way locations.

In addition, HARB moved for a continuance on the proposed garage plans to a future HARB meeting. Applicant will return to HARB within a year with an application for proposed work to install Juliet balconies on the two exit doorways on the north side of the structure; placement and screening of the AC units on the property; detail on how the meter box will be concealed and detail on the proposed lamp post and light fixture

Res. 2019-63 – Upon a motion by Mr. McEwan, seconded by Mr. Francis, it was unanimously agreed to issue a Certificate of Appropriateness to TMP# TMP#41-004-028, 3795 Aquetong Road as recommended by the Historical Architectural Review Board. Issuance of the Certificate of Appropriateness does not relieve the applicant from obtaining any and all applicable permits prior to commencement of work.

- **Fireworks Revision Ordinance – Authorization to Adopt**
The proposed ordinance amends the Solebury Township Zoning Ordinance, revising standards for temporary facilities for sales of consumer fireworks and clarifying standards for permanent facilities for sales of consumer fireworks. Advertisement of the ordinance was approved at the Board of Supervisors meeting on March 5, 2019.

Res.2019-64 – Upon a motion by Mr. Morrissey, seconded by Mr. McEwan, it was unanimously agreed to adopt the Fireworks Revision Ordinance, as advertised.

- IX. **Old Business – No Old Business**
- X. **New Business – No New Business**
- XI. **Subdivisions/Conditional Uses/Land Developments – No Subdivisions/Conditional Uses/Land Developments**
- XII. **Public Comment – No Public Comment**
- XIII. **Adjournment**

The meeting was adjourned at 6:36 p.m.

Respectfully submitted,
Catherine Cataldi
Secretary

ORDINANCE NO. 2019-004

**AN ORDINANCE OF THE TOWNSHIP OF SOLEBURY,
BUCKS COUNTY, PENNSYLVANIA, AMENDING THE
SOLEBURY TOWNSHIP ZONING ORDINANCE,
REVISING STANDARDS FOR TEMPORARY FACILITIES
FOR SALES OF CONSUMER FIREWORKS AND
CLARIFYING STANDARDS FOR PERMANENT
FACILITIES FOR SALES OF CONSUMER FIREWORKS**

WHEREAS, Section 1516 (53 P.S. Section 66516) of the Pennsylvania Second Class Township Code provides that the corporate powers of the Board of Supervisors of Solebury Township (the "Board of Supervisors") include the ability to plan for the development of the Township through Zoning, Subdivision, and Land Development Regulations under the Act of July 13, 1968 (P.L. 805, No. 247), known as the "Pennsylvania Municipalities Planning Code";

WHEREAS, Section 1601 of the Second Class Township Code provides that the Board of Supervisors may adopt Ordinances in which general or specific powers of the Township may be exercised, and, by the enactment of subsequent Ordinances, the Board of Supervisors may amend, repeal, or revise existing Ordinances (53 P.S. Section 66601);

WHEREAS, the Township has obligations under Article I of the Pennsylvania Constitution to protect property interests and to preserve and maintain the natural, scenic, historic and esthetic values of the environment;

WHEREAS, the Pennsylvania Second Class Township Code also provides to the Board of Supervisors the ability to enact regulations as may be necessary for the health, safety, and general welfare of the Township and its residents, to adopt and enforce construction and fire prevention codes, to regulate transient merchants, and to enact regulations pertaining to fireworks and inflammable articles, 53 P.S. §§ 66506, 66517, 66532, 66534, 66702-A, 66805;

WHEREAS, the Pennsylvania General Assembly passed Act 43 of 2017 (formerly SB542), which the Governor approved on October 30, 2017;

WHEREAS, the Act *inter alia* contains certain provisions regarding regulation of fireworks, including sales of consumer fireworks, as defined by Act 43 of 2017;

WHEREAS, the Township updated its zoning ordinances via Ordinance No. 2018-06;

WHEREAS, on December 4, 2018, in Phantom Fireworks Showrooms, LLC v. Wolf, 198 A.3d 1205 (Pa. Commw. Ct. 2018), the Pennsylvania Commonwealth Court determined that certain provisions of Act 43 of 2017 pertaining to temporary structures for fireworks sales are unconstitutional and invalid;

WHEREAS, the Township desires to update its ordinances to ensure proper protections;

WHEREAS, the proposed amendments have been advertised, considered, and reviewed in accordance with the Municipalities Planning Code; and

NOW THEREFORE, in consideration of the foregoing, be it **ENACTED** and **ORDAINED** by the Board of Supervisors of Solebury Township, Bucks County, Pennsylvania, as follows:

I. Chapter 27 of the Township Code of Ordinances is hereby **AMENDED** as follows:

A. STRIKE Section 27-2602.1.SS.(1) and **REPLACE** it with the following:

(1) **Definitions.**

a. "Consumer Fireworks," and "APA 87-1" shall have the same meanings as in Act 43 of 2017.

b. Outdoor storage unit – a consumer fireworks building, trailer, semitrailer, metal shipping container, or magazine meeting the specifications of the Pennsylvania Construction Code Act, the Uniform Construction Code, and the Township's Ordinances in effect at the time of the application.

c. Temporary structure – a structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of consumer fireworks and related items. The term includes temporary retail stands, tents, canopies, and membrane structures meeting the specifications of the Pennsylvania Construction Code Act, the Uniform Construction Code, and the Township's Ordinances in effect at the time of the application. The term shall not include a facility that is not licensed to sell consumer fireworks under federal and/or state law.

B. STRIKE Section 27-2602.1.SS.(3) and **REPLACE** it with the following:

(3) Temporary facilities for sales of Consumer Fireworks may only be permitted in accordance with the following conditions:

a. The facility must comply with the Pennsylvania Construction Code Act, the Uniform Construction Code, and the Township's Ordinances in effect at the time of the application.

b. The temporary structure is located no closer than 250 feet from a facility storing, selling or dispensing gasoline, propane or other flammable products.

c. The outdoor storage unit, if any, is separated from the wholesale or retail sales area to which a purchaser may be admitted by appropriately rated fire separation.

- d. The temporary structure is secured at all times during which consumer fireworks are displayed within the structure.
- e. The temporary structure has a minimum of \$2,000,000 in public and product liability insurance.
- f. The sales period is limited to June 15 through July 8 and December 21 through January 2 of each year.
- g. Consumer fireworks not on display for retail sale must be stored in an outdoor storage unit.
- h. The facility must have a current evacuation plan that complies with the specifications of the Pennsylvania Construction Code Act, the Uniform Construction Code, and the Township's Ordinances in effect at the time of the application, including all posting requirements.

C. STRIKE Section 27-2602.1.SS.(8) and **REPLACE** it with the following:

- (8). Application for Permit. An applicant for temporary sales of consumer fireworks shall submit an application for a special exception that contains, at a minimum, the following:
 - a. All federal and state licenses required for the facility to operate.
 - b. Proof of at least \$2,000,000 in public and product liability insurance.
 - c. Emergency evacuation plans.
 - d. A site plan demonstrating compliance with setback requirements.
 - e. All application materials and permit decisions from the Township's Code Enforcement Officer and/or fire code official regarding the proposed facility's compliance with the Pennsylvania Construction Code Act, the Uniform Construction Code, and the Township's Ordinances in effect at the time of the application.
 - f. Evidence of procedures to ensure compliance with the requirements set forth above, including, but not limited to, prevention of smoking in the facility, security measures, and restriction of unaccompanied minors in the facility.

D. STRIKE Section 27-2602.1.RR.(2)(b) and **REPLACE** it with the following:

- (b) The facility must comply with the Pennsylvania Construction Code Act, the Uniform Construction Code, and the Township's Ordinances in effect at the time of the application.

II. Partial Repealer

All other provisions of the Ordinances of Solebury Township, as amended, shall remain in full force and effect. All other Ordinances or provisions of the Ordinance inconsistent

herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, hereby specifically repealed.

III. Severability

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence or part of a provision had not been included herein.

IV. Effective Date

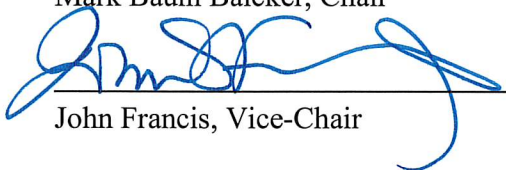
All provisions of this Ordinance shall be in full force and effect five (5) days after the approval and adoption.

ORDAINED AND ENACTED this 16th day of April, 2019.

BOARD OF SUPERVISORS OF SOLEBURY
TOWNSHIP, BUCKS COUNTY,
PENNSYLVANIA



Mark Baum Baicker, Chair



John Francis, Vice-Chair

Noel Barrett, Member



Robert A. McEwan, Member



Kevin Morrissey, Member

Attest:



Catherine Cataldi, Township Secretary