

THE SMITHFIELD TOWNSHIP BOARD OF SUPERVISORS
REGULAR BUSINESS MEETING
OCTOBER 11, 2023

A Regular Business Meeting of the Smithfield Township Board of Supervisors was held on October 11, 2023, at the Smithfield Township Municipal Center at 1155 Red Fox Rd, East Stroudsburg, PA 18301, and via Zoom.

Present are Supervisors Jacob Pride, Robert Lovenheim, Brian Barrett (via Zoom, arrives at 6:07PM) Solicitor Ronold Karasek, Engineer Jon Tresslar, and Township Manager Julia Heilakka.

Also present are Debra Tallada, Joann Norris, Richard Norris, Pam Barrett, Kristine Karol, Raymond Mitchel, Glen Wilka, Joab Vaughn, Tammy Booth, Jim Booth, and Lynn Schwarz.

1. Chair Jacob Pride calls the meeting to order at 6:00PM. A quorum is present.
2. The Pledge of Allegiance is recited.
3. Announcements
 - a. Trick or Treat Hours are October 31st from 4:00PM – 7:00PM.
 - b. Budget meetings are scheduled for October 18th and November 1st at 10:00AM.
4. Minutes
 - a. Robert Lovenheim motions to table the minutes from the September 27, 2023 regular meetings, Jacob Pride seconds. Vote: all in favor; minutes tabled.
5. Reports
 - a. Solicitor's Report – Ron Karasek states most of his time has been spent dealing with the pleading of the Shawnee Preservation Society lawsuit and the SVPRD developer's agreement. He sent out the advertisement for the Healthy Minds Conditional Use Hearing on November 8, 2023.
 - b. Engineer's Report – Jon Tresslar states a sinkhole opened on Airstrip Rd because of a rusted culvert pipe. The developer received an emergency permit from DEP, and will inspect the pipe tomorrow to ensure it meets Township requirements. Healthy Minds responded to the engineer's comment letter, so he sent out a second comment letter.
6. New Business
 - a. Consider: Consent Agenda.
 - i. Consider: Approve Resolution No. 533 – Community Investment.
 - ii. Consider: Authorize Purchase of New Controller for SR 447 & I-80 Light.

- iii. Consider: Authorize Fire Relief Contributions.
- iv. Consider: Approve Emergency Payment to Bushkill EMS at \$11,160.00.

Robert Lovenheim motions to approve the consent agenda and states he appreciates the work Bushkill Ambulance does, Jacob Pride seconds. No public comment. Vote: all in favor; motion carries. [At 7:22PM, Brian Barrett asks the record to reflect that even though he was not present to vote on the consent agenda, he agrees with it.]

- b. Consider: Approve Resolution No. 534 – Lot Joinder for Glusiec. Jon Tresslar states this joinder request met all conditions and is ready for approval. Robert Lovenheim motions to approve Resolution No. 534, Jacob Pride seconds. No public comment. Vote: all in favor; motion carries.
- c. Consider: Ordinance No. 246 – Act 167. Ron Karasek states this ordinance was advertised in the Pocono Record on September 27, 2023 and is a repeal and restate of the stormwater ordinance. This ordinance contains a stormwater management plan, general provisions, definitions, drainage plan requirements, a schedule of inspections fees, construction and maintenance fees, and appendixes related to the ordinance. Jon Tresslar states the model ordinance was vetted, heavily discussed, and modified. Jacob Pride states the ordinance maintains stormwater protection around bodies of water to prevent encroachment. The newest addition to the ordinance is a stormwater maintenance fund. Brian Barrett arrives at 6:07PM.

Robert Lovenheim motions to adopt Ordinance No. 246, Brian Barrett seconds. Joann Norris asks if this will apply to SVPRD. Jacob Pride replies no. Joann Norris asks about the land development agreement for SVPRD. Ron Karasek is pursuing the land development agreement pursuant to the 2005 tentative plan that was approved by the Township in December of 2008. Pam Barrett asks who filed the plan in 2005. Ron Karasek replies Shawnee Development Inc. Richard Norris states there are new owners. Jacob Pride states the Township is required to follow the law. Joann Norris states the SVPRD plan is expired. Jacob Pride replies the plan did not expire. Kristine Karol asks how this relates to the Healthy Minds submission. Julia Heilakka replies the Healthy Minds application was submitted on August 23, 2023.

Jacob Pride states a noted change was the addition of a stormwater maintenance fund. Jon Tresslar states most waivers were granted to comply with more updated requirements from DEP; in effect, the new ordinance does not change submission criteria, it updates Township requirements to reflect what applicants are already required to follow with DEP. Vote: all in favor; motion carries.

- d. Consider: DPW Loader Purchase – Contract Signing. Jacob Pride would like to table this discussion because the Township is waiting on an assessment. The Board will need to order the equipment soon so it is available before the winter season. Robert Lovenheim

motions to table the item, Brian Barrett seconds. No public comment. Vote: all in favor; motion carries.

- e. Discuss: Noise/Nuisance Ordinance. Pam Barrett states she took a tour of the motocross track on 16.6.1.33, and states that Robert Lovenheim met with the owners and gave them permission to work. Tammy Booth states that Robert Lovenheim approved the track. Robert Lovenheim states he did not approve the track, nor did he correspond with the owner regarding the track. Julia Heilakka confirms there are emails, but those emails do not discuss the motocross track. Robert Lovenheim states he told Michael and his wife that they were operating illegally and needed to cease immediately. Pam Barrett states Ron Karasek told Brian Barrett to not visit the property. Jacob Pride states the discussions took place before the enforcement notice was filed: Ron Karasek instructed the supervisors at the last meeting that they should not interact with the property owner now that the enforcement action is filed. Ron Karasek states one supervisor cannot speak for the Board. Pam Barrett states that Robert Lovenheim is interfering with the Zoning Officer. Robert Lovenheim states when he receives a complaint, he investigates the concern so he can go to the Zoning Officer as a witness. Tammy Booth states the Zoning Officer told her the property owner did not receive the letter until October 2nd. Debra Tallada states she cannot sit outside her home.

Pam Barrett states the noise ordinance is worthless – Ron told the Township that – but go ahead and write it, she does not care about it. Robert Lovenheim asks Pam Barrett for her thoughts on a solution for noise. Pam Barrett states there is music on weekends, and that Charlie Garris said he couldn't enforce it, and asks what mistake the Township is trying to cover up. Robert Lovenheim replies he has never had written conversation with the Michael Bern about the motocross. Pam Barrett states Robert Lovenheim should not go to the property and scream, yell, and use the f-word. Joann Norris asks why the Township can't shut down the business immediately. Debra Tallada states the business is supposedly a nonprofit, but should not be there. Jacob Pride states the Township agrees that the business is operating illegally, and the Township is taking enforcement action against the property, but must follow the law in doing so. Raymond Mitchel states the owner is charging \$50 a person. Pam Barrett asks Ron Karasek if the Board of Supervisors can fire the Zoning Officer because she spoke up, and states everyone knows what happened to Lois. Jacob Pride states the Township will not discuss personnel matters. Pam Barrett wants to make sure that Ken can tell the truth without being fired, and is tired of Robert Lovenheim writing ordinances, the Township needs a professional. Jacob Pride states the Township is trying to deal with a problem, but the conversation is being sidetracked. Pam Barrett states you have a little guy there. Jacob Pride states Pam Barrett should not comment on physical characteristics. Pam Barrett states that Jacob Pride called her a 70-year-old woman, and she is 71.

Jim Booth asks for an update on the progress of the ordinance. Robert Lovenheim apologizes that the conversation has turned antagonistic. Jacob Pride states that by law every township is required to have a zoning ordinance. The Township does, and is using that ordinance to take enforcement action against an illegal business. The discussion does not stop with the motocross, the Township is pursuing this ordinance to address other noise concerns in the Township. Tammy Booth confirms that the township is creating a new noise ordinance. Debra Tallada asks about the proposed ordinance. Robert Lovenheim states he and Julia Heilakka have spent the last week researching and drafting two separate possible ordinances. The intent is to keep this ordinance out of the zoning ordinance to permit a faster citation process. Robert Lovenheim explains the zoning citation process.

Debra Tallada asks why the business is permitted if the operation is commercial and the property is zoned R-1. Jacob Pride states it is not allowed: the Township is pursuing shutting down the business through the zoning process. He discusses neighboring township's noise ordinances. Debra Tallada states the motocross owner lied to her, and asks how the motocross track got so far. Robert Lovenheim replies the person does not care. Joab Vaughn confirms the property will be posted if the track appeals.

Jacob Pride discusses noise ordinances from other townships. The goal is to discuss the draft ordinances and get feedback. Once the township has an actual draft, it will be posted on the website. Kristine Karol asks if the business is a registered nonprofit. Joab Vaughn states he cannot find one. Kristine Karol suggests contacting the Department of Revenue.

Julia Heilakka states the Pennsylvania Association of Township Supervisors (PSATS) recommends a two-ordinance approach. She explains the difference between a plainly audible ordinance and a true noise ordinance. Plainly audible ordinances focus on being able to hear noise across a property line, while true noise ordinances focus on maximum limits for decibels. Common exceptions to both include using lawn/home repair equipment and emergency vehicles. Keeping these ordinances out of the zoning chapter will allow for immediate enforcement with fines, where leaving the noise ordinance in the zoning chapter requires a 30-day compliance/appeal.

Pam Barrett asks if Julia Heilakka and Robert Lovenheim will be the noise police on weekends. Julia Heilakka responds that the Township could consider moving the current Zoning Officer's hours or hiring an additional Code Enforcement Officer, but before any of that can be discussed, that Township must first draft an ordinance. Kristine Karol asks if there are fines for operating an illegal business, and why has the township not started that process. Julia Heilakka replies that the Township has begun that process; instituting the zoning enforcement action letter is the first step in that process. Jacob Pride states that for zoning offenses, alleged violators are innocent until proven guilty.

Glen Wilka asks if the fines are significant enough to stop the business, and if the ordinance will cover fireworks. Robert Lovenheim replies the Township would set a schedule of fines, and he would like \$1,000 for the first violation, but it will probably be a scaled system. Brian Barrett

feels the Township should defer to Ron Karasek. Ron Karasek agrees with a standalone ordinance because it will be able to move faster. Ron Karasek discusses the lengthy process of enforcing a zoning violation. Robert Lovenheim discusses a model ordinance from New Jersey, special events exceptions, limits on music, and limits on construction times.

Richard Norris states the motocross track is breaking the law and wants to send cops to the property to arrest the owners. Jacob Pride states the township does not have that authority. Pam Barrett states Robert Lovenheim is turning the Township into a police state. Robert Lovenheim asks the audience if they want to listen to hecklers or work to craft something that works. Raymond Mitchell states we are moving forward. Tammy Booth doesn't like either ordinance and states the problems are normally on weekends. Joab Vaughn states the State Police don't enforce noise. Jacob Pride replies they are not charged with enforcing local ordinances. Pam Barrett asks if this is being done because of a mistake with the R-1 zoning, because this is crazy.

Lynn Schwarz has spoken to the police, who stated that they would enforce a local noise ordinance if enacted. Jacob Pride states they generally don't take enforcement action on township responsibilities. Pam Barrett asks if they are willing to sacrifice people's lives because the state police are so busy with crime and now they would need to chase down a lawn mower. Lynn Schwarz discusses music and decibel levels in one of the proposed ordinance. Jacob Pride states bars may also be enforced via the Liquor Control Board. Pam Barrett states this is America, do you want people looking down your throat all the time? Lynn Schwarz asks the Township to consider quiet zone areas: noise affects people and animals.

Tammy Booth confirms the Township would need to purchase a decibel reader and then train users. Robert Lovenheim would like all supervisors to be certified for decibel reading. Jacob Pride states the Township may need to adjust working hours to be able to address weekend noise. Robert Lovenheim states he is frustrated – he wishes the Township could stop the illegal business immediately. Ron Karasek discusses the process of enforcement for Upper Mount Bethel Township (UMBT) and suggests decibels measured at the property line. Debra Tallada discusses exceptions to the noise ordinance so people could mow their lawn in the morning. Ron Karasek replies an exemption in one of the drafts covers lawn equipment.

Debra Tallada discusses a camp near her using megaphones late at night. Pam Barrett asks if the Township will chase down motorcycles. Lynn Schwarz states people modify motorcycles to be louder, and asks if the UMBT ordinance was a deterrent. Ron Karasek discusses his experience with UMBT.

Jacob Pride states the consensus is that something needs to be done. The current fine under zoning is \$500 per violation, and the Board can consider a tiered fee schedule like false alarms. Raymond Mitchell thinks a noise ordinance will be great for the Township, and confirms that the business is not allowed. Brian Barrett states the PC will review this. Julia Heilakka clarifies that the zoning enforcement action is the process that the Township is taking to stop a business from operating in an R-1 zone. Raymond Mitchell states the illegal business plans to expand. Jacob Pride states MCCC has sited the property for lack of an NPDES permit.

Debra Tallada states the BMX is ruining their lives. Jacob Pride states the 30-day window closes on October 2nd. Debra Tallada states a business cannot exist there at all, how did this get so far? Robert Lovenheim replies the owner acted illegally. Jacob Pride reiterates that the BMX owner's business practices must be handled by other agencies, and the Zoning Officer filed enforcement action against the owner for an illegal business in a residential area. The owner is innocent until proven guilty. If they appeal to the ZHB, there will be a hearing. Pam Barrett states the property is listed on the tax records as recreation/resort. Joab Vaughn replies that has nothing to do with the zoning. Jacob Pride states the property has been cited by MCCD but they do not have the authority to shut businesses down. He will contact the SEO to investigate sewage concerns.

Jacob Pride states the consensus of the discussion is that hours of operation and decibel levels are important. The Board will await the PC's comments. Raymond Mitchell thanks the Township. Robert Lovenheim replies thank you, we can only solve this problem if we work together.

- f. Discuss: Budget Meeting Dates. The Board will discuss additional budget meeting dates at their budget meeting on October 10th.
7. Board of Supervisors' Report:
 - a. Trick or Treating hours are 4 – 7pm. Pam Barrett asks if the Township will do anything for the kids.
8. Bills: \$234,472.63, (General Fund: \$234,472.63, Liquid Fuels Fund: \$0, Escrow Fund: \$0). This bill pack includes one payroll, utilities, engineering and legal reimbursable and non reimbursable expenses, and road maintenance bills. Robert Lovenheim motions to approve the bills, Brian Barrett seconds. No public comment. Vote: all in favor; motion carries.
9. Public Comment – none.
10. Robert Lovenheim motions to adjourn, Jacob Pride seconds; meeting adjourned at 7:28PM.

Minutes recorded by Julia Heilakka

Respectfully submitted:



Julia Heilakka, Assistant Secretary