

**LOWER GWYNEDD TOWNSHIP BOARD OF SUPERVISORS  
REGULAR MEETING  
TUESDAY, NOVEMBER 28, 2017**

**SUPERVISORS PRESENT:**

Stephen Paccione, Chair  
Kathleen Hunsicker, Vice-Chair  
Edward J. Brandt  
Dr. J. Richard Booth  
Mark Grey

**STAFF:**

Craig T. McAnally, Township Manager  
Carole Culbreth, Assistant Secretary  
Michael Savona, Solicitor  
Ken Amey, Zoning Officer  
Paul Kenny, Police Chief

**Call to Order and Pledge of Allegiance**

The Chair called the meeting to order at 7:35 p.m. in the Lower Gwynedd Township Municipal Building and led those in attendance in the pledge of allegiance. The Chair stated the Board of Supervisors met in an Executive Session before the meeting on a personnel matter.

**BUSINESS & FINANCIALS**

**Receipt of Year-to-Date Budget Report, October, 2017**

The Board of Supervisors received the Year-to-Date Budget Report for October, 2017. The Chairman asked if there were any questions. There were none. Dr. Booth made a motion, seconded by Ms. Hunsicker to approve the Year-to-Date Budget Report, October, 2017. The motion carried 5 - 0.

**PUBLIC COMMENTS**

The Chairman opened the meeting for public comment for items not on the agenda. There were none.

**OTHER BUSINESS**

**Ordinance No. 517: Environmental Advisory Council**

Mr. Savona stated Ordinance No. 517 will establish the powers, duties and responsibilities of the Environmental Advisory Council. He stated on December 19, 1996 legislation was enacted to authorize municipalities to establish by ordinance, an Environmental Advisory Council to advise

the municipality's planning commission, park and recreation board and electoral affiliates on matters dealing with protection, conservation, management, promotion and use of natural resources located within the municipality's territorial limits. Mr. Savona asked if there were any questions or comments. Jo White, Stonebridge Road, asked for an explanation of the Environmental Advisory Council. Mr. Grey explained that the Gwynedd Green Committee (GGC) replaced the Recycling Committee. The GGC developed educational forums, rain gardens; and other environmental programs. He stated the council will have more opportunities for education and resources under this ordinance. Mr. Grey stated the members who are currently GGC members will be chosen to be members of the Environmental Advisory Council. He stated the meetings are open and others can attend. Ms. Hunsicker stated Lower Gwynedd is a Township that thrives on volunteerism and asked those in attendance tonight to consider filling out a volunteer application. Mr. Brandt explained EPA and DEP's many unfunded mandates and how it falls to the local level. Mr. Grey stated a consortium of 13 municipalities and 4 treatment plants are mandated to clean up the Wissahickon Watershed. He stated the consortium received a \$1,000,000 grant for clean-up. Dr. Booth made a motion, seconded by Mr. Grey to adopt Ordinance No. 517 Environmental Advisory Council. The motion carried 5 - 0.

**RBR Consulting, Inc.**

Mr. Savona stated the Township received two cost estimates from RBR Consulting, Inc. for Residential Health Risk Assessment at Sumneytown Pike and North Bethlehem Pike Site, Lower Gwynedd Township Pennsylvania. He stated Option 1: Preparation of Residential Health Risk Assessment Report including Construction Worker Scenario at a cost of \$15,000; and Option 2: Preparation of Residential Health Risk Assessment Report Omitting Construction Worker Scenario at a cost of \$10,200. Mr. Savona stated this will satisfy the requirements of the Act 2 process, indemnification and soil testing; and Township Manager to determine which option for the Township. He recommended the Board hire RBR Consulting not to exceed a total cost of \$15,000. Dr. Booth made a motion, seconded by Mr. Grey to approve the cost estimate of RBR Consulting, Inc. not to exceed a total cost of \$15,000. The motion carried 5 - 0.

**BUILDING AND ZONING**

**Ordinance No. 518: Zoning Amendment Ordinance**

The Chair explained why Ordinance No. 518: Zoning Amendment Ordinance is before the Board of Supervisors tonight. He stated Township staff performed a comprehensive review of Township Ordinances and updates were recommended. The Chair stated Ordinance No. 518 has nothing to do with the Merck sale. He explained the timeline of events with Merck over the last couple of months.

Mr. Amey gave the following summary of Ordinance No. 518: Zoning Amendment Ordinance

- Section 1 - This section adds a definition of "Precision Instruments and Controls" to the Zoning Ordinance. Currently, the F-1 district allows uses related to the manufacturing and

processing of “precision instruments and controls”; however, that term is not defined. Adding this definition adds clarity to the Zoning Ordinance.

- Section II – This section deletes the current section which allows other, similar, manufacturing type uses by special exception in the F-1 district, which includes the Merck site (Moore Products) and the J & J site (McNeil Labs), for a total of approximately 325 acres. It is important to remember that a special exception use is a permitted use. Therefore, the existing ordinance allows other uses that may not have originally been contemplated in this district. We have researched the ordinance as it existed in 1963, shortly after the construction of the Moore Products and McNeil buildings. At that time there was no special exception language in the ordinance, allowing the township to have more control over potential uses in the F-1 district. The proposed ordinance restores the limitations on permitted uses.
- Sections III through VII – The purpose of these sections is to remove the language that lists “Prohibited Uses” in several zoning districts. Each district has a list of permitted uses and, if a use is not listed as permitted, it is prohibited. Therefore, there is no logical reason to separately itemize prohibited uses; at best this is redundant, and at worst it creates ambiguity and weakens the ordinance. By removing the sections listing prohibiting uses, you will be removing a potential source of ambiguity and strengthening the ordinance.

Mr. Savona opened the public hearing on Ordinance No. 518: Zoning Amendment Ordinance. He stated the Board authorized advertisement of the ordinance on October 24, 2017. Mr. Savona stated the Ordinance was advertised in The Reporter and The Reporter online on October 31<sup>st</sup> and November 8, 2017. He stated the Ordinance was reviewed and recommended by the Montgomery County Planning Commission and the Lower Gwynedd Planning Commission. Mr. Savona stated the Board is not voting on a particular application and discussion should be on the approval of the Ordinance as described by Mr. Amey.

Mr. Savona asked for public comments.

In response to questions from Diane Morgan, 753 Johns Lane, Mr. Savona stated the purpose of the ordinance change is to restrict F-1 uses; define “Precision Instruments and Controls” and remove the language that lists “prohibited uses”. He stated the pending ordinance will take effect 5 days after adoption.

In response to a question from Dr. Jo White, 1007 Stonebridge Road, Mr. Savona stated the proposed ordinance removes permitted uses by special exception.

Paula Shafer, 23 Brookline Court, stated she is concerned about the Merck Property, and we want the Township to have the control. She stated the residents need your leadership to protect the Township.

Jeff Wilhelm, Reed Smith, Merck's outside counsel, introduced Nancy Bednarik, Merck's Director, Global Facilities Management and Steve Tarnowski, Merck. He stated this severely invades Merck's 5<sup>th</sup> amendment rights.

Mr. Tarnowski stated Merck deals with issues throughout the world and are transparent with their dealings. He stated at Lower Gwynedd Township there is a lack of transparency and this ordinance's effect is spot zoning which takes Merck's property rights. He stated Merck does not allow residential development on their properties (since 1992). He stated people sue Merck all the time in the assumption they have "deep pockets".

The Chair stated he takes objection to the statements and reminded them this is a legislative hearing. He asked when did the property become deed restrictive. Ms. Bednarik questioned if on any of the township emails did you communicate you were changing the Ordinance.

Mr. Grey stated it sounds like Merck lost something. Ms. Bednarik stated potential suitors were eliminated; narrowed by the proposed approved uses.

Mr. Grey explain that Lower Gwynedd Township has been a farming community since 1698. He stated the concern is what is left behind for the future. Ms. Bednarik stated it is a risk issue. Mr. Paccione requested they donate the property to the Township. Merck responded they would have to take it to the foundation. Ms. Hunsicker asked if the agreement was signed. Merck said no. Mr. Paccione stated it is not specific to you, but to Janssen also. Ms. Bednarik thanked the Board for taking the time; there are two sides to the story. She stated Merck was collecting data and soft marketing the site. Mr. Paccione said the Township was left out. He stated I do not roll that way. Ms. Bednarik stated you are changing the definition without communicating with our office. She stated there was a tour of the property with Stoltz. Mr. Wilhelm stated the restriction of precision control use is a violation of our 5<sup>th</sup> amendment and we will invite you to the Eastern and Western District Courts.

Michael Clement, Esq. Wisler Pearlstine stated Geissele Automatics has contracts with the U.S. Dept. of Defense. They manufacture small arms for people who protect you; we do not make or sell guns. Mr. Clement stated there will be a criminal investigation if this passes, his client cannot move forward and wrong doings are found with developers.

Gloria Jones, 1007 Pershing Road, asked the Board not to give in to Merck's threats. She stated the Board has a responsibility to protect the residents.

William Geissele, Geissele Automatics, asked to speak as a Lower Gwynedd Township resident. He asked that before a decision is made do your due diligence; see what we do and who we are. Mr. Geissele stated I don't want anything detrimental to the property or this Township where he and his family lives.

In response to a question from a resident, Mr. Geissele stated his current location is 2.5 miles away in North Wales and Geissele Automatics does not make guns. He stated Geissele Automatics is a United States defense contractor. Mr. Geissele stated we make gun components that some of your sons and daughters use in Special Forces to protect this country and our freedom.

Diane Morgan stated the zoning codes and regulations have to be followed; there are regulations we all have to live with.

In response to a question from Dr. Jo White, Mr. Geissele stated heavy metals will not leave the building. He stated we must abide by Federal and State regulations.

Lois Pan, 909 Foulkeways, stated "We need more money for schools and less for weapons".

Tiffany Hodgson, 817 Warren Road, asked that her following opinions be considered; good jobs for skilled levels, education, encourage companies to cure diseases and a community with positive outcomes.

John Hennessey, 1007 Stonebridge Road, stated he has respect for the industry, but it does not belong here.

Mr. Savona closed the public comment period.

The Chairman asked for the Supervisors comments.

Mr. Grey stated Merck is great; having worked there I have a passion for what they do. He stated there may be concern where it may not be needed. He stated the change is going to impact Merck. Mr. Grey stated he understands Mr. Geissele plea that it's necessary to listen and then make a decision. He stated we are one community and there is no evil in the corporation.

Mr. Brandt thanked everyone for coming out tonight. He explained he lived in the Township for 44 years and has served on the Zoning Hearing Board for 4 years; has been a supervisor for 31 and chairman for 20 years. Mr. Brandt stated he is very proud of Lower Gwynedd Township staff and supervisors in the past and present. He takes exception to the Chairman taking credit for finally getting rid of the Texaco station. Mr. Brandt stated the Township has been trying for 20 years to buy the Texaco property but it wasn't until Charlie Dager passed that the family sold it to the Township. He apologized for the way the Solicitor cut off Mr. Geissele. Mr. Brandt stated he wanted to know what this business did so he visited the site. He said Mr. Geissele is brilliant and he cares about the Township. Mr. Brandt stated Merck is a taxpayer and a good partner for the Township and communication could have been better.

Ms. Hunsicker explained this is a democratic process not about gun control and the second amendment. She stated we are here to account for the highest and best use of the Merck property.

Ms. Hunsicker stated she does not have enough information and would like more information from the Solicitor. She would like a meeting with Merck. Ms. Hunsicker asked for the vote to be postponed until we can understand the effect of this ordinance change.

Dr. Booth stated the Board wants to do the best for the Township. He has been here since 1959. He said the Merck property is beautiful. He agreed we should postpone the vote. Dr. Booth stated the factory is great with high technological equipment with competent people running the business.

Mr. Grey stated if we postpone the vote we are giving up control under the current legislation.

Dr. Booth stated if we approve the ordinance the buyer still has the right to buy the property.

Mr. Savona explained the Board could continue the hearing until December 12, 2017 and it would not affect the nature of the ordinance. He continued stating anyone can come forward and be entitled to the use in this location. Mr. Savona stated the board can continue the public hearing on December 12, 2017 or vote this evening.

The Chair stated he respects his colleagues but asked for a motion.

Mr. Grey stated he was shocked that Board members visited a potential buyer and business. Mr. Brandt said it was only two members not a quorum. The Chair stated on the advice of counsel he did not visit the site. Mr. Brandt stated he talked to counsel and as long as three members did not visit.

Ms. Hunsicker asked for a clarification of the continuance.

Mr. Savona stated the ordinance is a text amendment and no individual gets notice. He stated the ordinance is pending and a new application or zoning permit will be considered to abide under the pending ordinance. He stated any project must comply. Mr. Savona stated hearing will be continued not closed.

The Board took a recess at 9:30 p.m. The Board reconvened at 9:50 p.m.

Ms. Savona stated the Vice-Chair asked for continuance of the public hearing until December 12, 2017.

Ms. Bednarik stated there are deed restrictions on the property.

Mr. Brandt made a motion, seconded by Dr. Booth to postpone the vote and continue the hearing on Ordinance No. 518 – Zoning Amendment Ordinance until the December 12, 2017 Board meeting. The ayes have it (Kathleen Hunsicker, Edward Brandt and J. Richard Booth), those opposed (Stephen Paccione and Mark Grey) the motion carries 3 – 2.

Ms. Hunsicker stated this is not about gun control referendum, but an opportunity to talk to Merck and understand their concerns. She stated you have my pledge to protect the health, safety and welfare of the residents in Lower Gwynedd Township.

Ms. Morgan asked if it was the practice to visit potential buyers. Mr. Savona stated in order to perform due diligence, they visited the property and walked away impressed.

Sarah Wanger, Alene Road, stated she thought the purpose was to discuss Ordinance No. 518 not a particular suitor. She voiced her concern that the meeting was disingenuous and residents were cut off. Ms. Wanger stated she is a newcomer to the Township and did not appreciate the bullying tactics.

Ms. Hunsicker stated the Board will meet with Merck and get a clear understanding of the issues because she is concerned with liability.

A Schoolhouse Lane resident stated those who visited Geissele Manufacturing should recuse themselves.

Mr. Brandt thanked everyone for coming out tonight. He said two supervisors cared enough to visit.

Mr. Paccione stated we will meet again on December 12, 2017. He stated the other supervisors voted against Mr. Grey and me.

A resident asked the best way to communicate to the township. Mr. McAnally stated at [contactus@lowergwynedd.org](mailto:contactus@lowergwynedd.org).

There being no further questions or comments, the meeting was adjourned at 10:10 p.m. until the next Regular Meeting scheduled on December 12, 2017 at the Lower Gwynedd Township Building.

Respectfully submitted,

Carole Culbreth  
Assistant Secretary