

Planning Commission (PC) Meeting Minutes
Wednesday, January 16, 2019, 7:30 P.M.

Commissioners in attendance: Gary Summers, Paul Cardell, John Hess, Matt Murphy, Rob Miller, Mickey Bailey. Commissioner absent: Sean Rafferty.
Consultants in Attendance: Kim Venzie, PC Solicitor; Craig Kologie, Zoning Official.

1. **Call to Order:** Summers called the meeting to order at 7:30 p.m.
2. **Confirmation of Appointments and Election of PC Chairman/Vice Chairman:** Secretary stated that during the January 7th Reorganization Meeting, the Board reappointed Matt Murphy and Rob Miller. MOTION: Miller moved, Hess seconded, to nominate Gary Summers to serve as Chairman; motion carried. MOTION: Cardell moved, Murphy seconded, to nominate Sean Rafferty to serve as Vice Chairman; motion carried.
3. **2019 Public Meeting Schedule:** Commissioners confirmed the first Wednesday of the month for the public meeting with no meetings scheduled for August or December unless needed and as advertised.
4. **Special Events Ordinance:** Venzie provided a summary sheet of informal notes as guidance for navigating the discussion of the legislation enacted on December 26, 2018. The PC has been tasked by the Board of Supervisors to recommend amendments. DISCUSSION: Miller asked and PC discussed whether a large wedding held on private property is a special event as defined in the Ordinance. Venzie and Kologie noted that the number of participants in attendance, with 100 being the benchmark, is in part the qualifier for a special event. A family choosing to have a wedding on private property is a good example of a component of the definition that is not clear given that it is not necessarily recreational but it may have the potential of impacting the community and roadways given the number of attendees. Hess offered that the language in Township Review Section 4.D.1. determining desirability of an event by the Township is too heavy-handed in that there is uncertainty as to who makes such a determination. Miller agreed that the reference is arbitrary. Kologie responded that the decision could be based on any one or any number of the requirements set forth in the Ordinance and within the permit application. Secretary was asked to distribute the draft permit application noting that the final text was still before the Board and Solicitor for approval. Hess suggested that Requirements Section 6.J.Notification presents a potential scenario for a neighbor to object to the event, thereby putting the property owner in violation of the Ordinance. Kologie and Venzie explained the District Justice Court Process in filing a summary violation, including costs and fines associated with the process. They also pointed out that a neighbor would not have legal standing to file an objection to the special event in the event that the Township issued a special event permit. Kologie agreed that while notification is in the Ordinance, a formal process does not exist for the filing of an objection to the special event if a neighbor, once notified, raises an objection. He added that if a determination is made by the Township to close a road for the special event, the Board of Supervisors would be required to make the decision and announce it at a public meeting. PC discussed if Requirements Section D.Traffic Control provides an opportunity for an aggrieved neighbor to appeal an approved special event permit particularly if the traffic plan is inadequate or incomplete. Consultants restated that the

neighbors have no legal right to appeal the special events permit issued by the Township. The Township issues the special event permit based on compliance with the Ordinance and not based upon notification to the neighbors and their comments, although requiring submission of the special events permit application 60 days prior to the event allows sufficient time for such comments. PC discussion continued to focus on the removal of Requirements Section 6.J altogether as the notification process and consequences of sending or receiving are not clear. It appears to be a courtesy not a mandate, yet it remains an onerous task for the property owner to correctly measure the property distances in order to identify recipients for the notice. PC discussed what may or may not be conflicts with the 60-day time requirement for submission of the application in advance of the event date when juxtaposed with the 10-day requirements under Fees and Costs Section 7. Bailey suggested that while there may not be many special events in the Township, the Ordinance seems to potentially put property owners at odds with their neighbors if, say 98 participants attend an event that did not require a special events permit, or if when asked, the property owner indicates that fewer than 100 people will be attendance. At this time, Summers called for public comment which was presented as follows:

- a. Tanna Blevins, Locust Grove Road, voiced concern that the legislation was enacted based on an occurrence at one residence. She commented that the Township acted hastily in passing the legislation. She offered that the 60-day application submission requirement is too stringent as families often do not know that far in advance the particulars for a graduation or birthday party. There are often extenuating circumstances. PC noted that there may be a basis to amend the Ordinance threshold for participants to 200 or to exempt family gatherings by definition.
- b. Nancy Ercolani, Locust Grove Road, commented that the Ordinance appears to address family gatherings under Application Section 3.B. as the zoning official can waive the application and requirements. Given the specificity of the definitions in the Ordinance, the PC was uncertain if such a waiver would apply. They also noted that applicants might bypass the Ordinance requirements by simply indicating to the Township that a special event is a family gathering. Ercolani noted that the Ordinance as written provides an enforcement tool for the state police. It was noted that the state police do not enforce local ordinances. Secretary was excused from the meeting to retrieve an administrative regulation entered in 2011 confirming that the state police do not enforce local laws, codes, or ordinances. It was recognized that the state police response to the December event at Castle Bam was in response to the health and safety of the community given the number of participants and the number of cars blocking the roadways.
- c. Jim Jordan, Brandywine Red Clay Alliance (BRCA), commented that after review of the Ordinance by his Board, it appears that the Ordinance will put BRCA out of business and 43 employees will lose their jobs. BRCA has as many educational events as they have fundraisers and other non-educational events. The Steeplechase Point-to-Point and the Music Under the Stars are not educational events. They are significant sources of income from admission, parking, etc. Jordan is concerned that the Ordinance is burdensome as quite often the BRCA Board may identify a fundraising event during a board meeting that they want to quickly promote and may not be able to match the 60-day application requirement. Equally important, he stated that BRCA recently held a 4-hour open house honoring the retirement of Bob Struble. It was an open house with no RSVP and therefore, no way to predict how many participants would be in attendance. PC noted that an open house is not defined in the Ordinance. BRCA is very concerned that direct planning and management of their events is

removed based on the provisions of the Ordinance. It appears to BRCA that the management of their events is now placed in the hands of the Township. BRCA has an excellent track record with the Township, they have never caused parking or attendance issues for the Township, their events are planned and comply with all state regulations for health and safety, and their programs do not have an adverse effect on the Township. PC suggested that partnering an event with the Township might provide relief under Definitions Section 1. Jordan indicated this would not be acceptable given that liability issues would have to be addressed and that doing so would hamstring the BRCA planning process. Venzie offered that the Ordinance is similar to that which has been passed by other municipalities and that it was not intended to be limiting to any organization or individual. A lengthy discussion ensued regarding the 300± acres owned by BRCA, their mission statement as stewards of the land, and the desire of the PC for the Township to address the concerns of BRCA. MOTION: Miller moved, Murphy seconded, to recommend to the Board of Supervisors that given that the Brandywine Red Clay Alliance is a recognized organization and that it is important to Pocopson Township, that Brandywine Red Clay Alliance receive a waiver from all provisions of Ordinance No. 2 of 2018, which was enacted December 26, 2018; motion carried. Secretary was directed to submit the motion for the January 28, 2019 Board of Supervisors meeting and that Jordan also submit a written request in the form of a letter along with a list of BRCA events.


Commissioners thanked those attendance for their comments. Following discussion, the PC tabled Miller's motion to raise the threshold number of participants for a special event to 200 as there was no consensus given that, as Cardell suggested, any number might attend an impromptu family gathering or recreational gathering around a bonfire. Jordan offered that there might be a practical reason to amend the threshold based on the parking arrangements, i.e., the number of vehicles rather than attendees. Murphy offered that the Ordinance has a significant impact on the Township and that it is impossible to legislate every scenario. He agreed that basing the applicant's ability to safely park vehicles and to access the property might in and of itself limit the participants. Venzie and Kologie also noted that the Ordinance does not address limits to the number of times a particular property can host a special event annually. The PC is not certain to what extent laws governing disturbance of the peace automatically trigger the state police taking control of a special event. Summers asked Commissioners to review their notes for the February 6th PC meeting in order to continue the discussion so that substantive recommendations regarding any potential amendments can be prepared and submitted to the Board of Supervisors as requested.

5. **Federal Communications Commission (FCC) Declaratory Ruling and Third Report Order:** Venzie provided a brief review of the FCC document issued as part of its ongoing efforts to remove local regulatory barriers that the FCC perceives to be slowing down the deployment of wireless infrastructure in the United States. This infrastructure is needed in order for the U.S. to win the global race to 5G and insure access to broadband and benefit from 5G networks. The Ruling was effective January 14, 2019. Commissioners discussed the potential use of newer, less expensive devices that companies may deploy in residential or high density areas and the lack of information on health implications. Venzie indicated that there may be a requirement to amend language in the current Code to address such topics as revenue sharing, location of devices given changes in the technology, and municipal approval turnaround time for permits. MOTION: Miller moved, Hess seconded, to have the PC Solicitor move forward with an analysis of the impact of the Ruling on wireless communications facilities ordinances adopted by the Township; motion carried.

6. **Regulating short-term Rentals:** Commissioners agreed to table discussion for the February 6, 2019 meeting.
7. **Approval of December 5, 2018 Meeting Minutes:** MOTION: Hess moved, Miller seconded, to approve the December 5, 2018 meeting Minutes as submitted; motion carried.
8. **Other Business:** no other business to discuss.
9. **Adjournment:** At 9:00 p.m., Summers moved, Hess seconded, to adjourn the meeting; motion carried.



Susan Simone, Administrative Secretary



Gary Summers, Chairman