

**SALEM TOWNSHIP PLANNING COMISSION
SPECIAL MEETING MINUTES
CONGRUITY PRESBYTERIAN CHURCH
136 FENNELTOWN RD, NEW ALEXANDRIA PA 15670
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Lisa: So basically, whatever I do on my property that can potentially impact the community and neighbors like sewage and water.

Gary: As things stand now, if you have 2 acres of ground in Salem Township, you can put any type of commercial use you want on it.

Connie: Provided you go through a process; you have the space to put sewage facilities on there. Provided you can put enough parking. There are some requirements.

Lisa: So basically in the ordinance you can do it, you just have to find a way.

Joe: So why is it always sewage? For some commercial businesses they don't even need sewage.

Gary: Under the Sewage Facilities Act, we are not to grant subdivision or land development plan approval to any development that does not have adequate sanitary sewage.

Connie: Any other questions. I didn't follow the agenda as far as making any recommendations. Other than making a motion to accept the public comment, there's no recommendations at this point.

Gary: You don't have to tonight, but will have to at some point.

Motion made by _____ and seconded by _____ to (accept/refuse) the public comment.

Vote on the motion: DURCO_____HOLLERAN_____MATTEI_____

Connie: The comments will be put in some type of formal format and presented to the Supervisors. If there aren't any more questions. I appreciate everyone coming and staying engaged. This is the first of at least two changes to the SALDO, hopefully not more than that, so we can make it better and easier for the residents to navigate.

Do I have a motion to adjourn? Paul made the motion. John seconded the motion. Vote on the motion was unanimous.

Motion made by Paul and seconded by John to adjourn this meeting with the next regular meeting to be held on December 4, 2024 at 6:00pm if there is an agenda.

Vote on the motion: John Durco, Paul Holleran, and Connie Mattei voted for the motion. Motion passed unanimously.

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3. Discussion to remove and repeal Appendix B of the SALDO and other provisions within the body of the SALDO which have been deemed to be preempted and unenforceable under the Pennsylvania Oil and Gas Act.

Discussion:

Gary: The reason they would be removed, is that in the body of the ordinance there are references to the Appendix and how things are to be handled through the Appendix.

Connie: Does anyone have any questions about that?

John Wright: Could you explain the difference between a subdivision as opposed to a minor subdivision as proposed here?

Gary: The definition of subdivision itself is taken from the MPC, so every lot line revision, minor or major is a subdivision.

John: So you are giving a broad definition then sub-categories?

Gary: That's correct. The reason it is broken into sub-categories is because it allows us to set fee structures for the different classes of subdivisions.

John: Since you are using paragraph identification in other areas of this ordinance, would it be appropriate to say give it a Roman numeral, with the sub-categories as A and B to make it more clear?

Gary: We could do it that way, but this is taken right from the definitional section of the ordinance, but it will flow once in the ordinance.

Connie: The rest of the definition are in alphabetical order and are organized.

Lisa Heasley: What is the difference between zoning and an ordinance?

Gary: Zoning tells you where you can build things and what you can build. Subdivision and land development deals with how they are constructed and how the use is implemented. That's in basic terms as I can put it.

Connie: I think that's backwards. To me land development tells you where on your property you can put something but not what you can put on your property.

Gary: And how it is supposed to be located that gets into like sewage.

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would also like to see a way to amend plans easier so when you have something change in the middle, you don't have to go back to square one. That's something I hope we can work on.

Jim: Is all this stuff going to affect the farmers? When they are building their big buildings, are they going to have to go through this? Because that's a commercial business.

Connie: No. Farmers are exempt. The definitions are to make it easier to categorize plans so minor lot line revisions can get through the process. We have never had that category before.

Madchen: What I was saying before, if there is home and on part of the property there is a commercial business that is empty. When someone goes to buy that property, is that going to be changed? To make it legal in the Township for it to be sold?

Connie: I don't think the Township has anything to say about the sale of a property or the re-deeding of it.

Madchen: So it would still be part residential and part commercial. No tagging for storage or anything like that? That confuses me too. The tagging of property for storage only, that's kinda like zoning.

Connie: Well, I thought that was fixed at the last planning commission meeting.

Joe: So you're saying that properties shouldn't be tagged for storage.

Gary: We're getting a little far off the field. We're not talking about that.

Joe: This is the first time talking to you Gary, and I wanted to ask you all the questions I had.

Gary: Your property is your property. What it is and what it exists as, is what it is and what it exists as. The Township doesn't take a look at property transfers and says this property has a house and a commercial garage on it so we are going to make sure the commercial garage stays a commercial garage. Or this property has a house and a big garage on it, we don't know what is in the garage or if it is being commercially used, so were just going to call it storage and automatically limit you to that. That's not what the Township does. They wouldn't be able to do that under this ordinance.

Connie: Any questions about the definitions and the categorizing of plans? The last section has to do with the removal of Appendix B and some of the other sections of our ordinance that refer to the oil and gas regulations.

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Don: I guess this thing bothers me because I can do whatever I want on my own property until you deem 'no' I can't do it.

Gary: That's not the case.

Don: But that's how you are wording it.

Gary: What I am saying is that you can still do what you're doing, but you might have to come in to the Supervisors or Planning Commission.

Don: I have to ask your permission.

Gary: No, you'd have to comply with things like off-street parking requirements, show that you have sufficient area on your property to accommodate the commercial use you are trying to do. That's all it is.

Connie: We don't have zoning.

Don: And I don't want zoning.

Connie: Neither do I.

Don: And I don't want a limit on what I can or can't do on my own piece of property.

Connie: One of the ways Gary has described our SALDO is that we are trying to force a square peg in a round hole. A SALDO is a round hole. All the zoning needs to go, and that is my hope as we move forward. Home-based businesses belong in zoning ordinances not in SALDOs. What you do on a residential parcel is up to you. The Township has a very hard time enforcing a business on a residential property. We just don't have that category. So other than defining an accessory building, which I have not seen that language in other ordinances under a land development ordinance, nothing in these definitions is going to redefine a residential property that has a business aspect to it. That is not the intention of where we hope to go in the future. In fact, personally I would like to see more of the ordinance taken out because it is restrictive. When you do buy a commercial business and expand the use that requires relooking at the sewage and things like that, that is something slightly different. There isn't any problem with subdividing off that building, but if it expands then it would become a land development.

Jim: It was for ten months, but now we are getting into different rules and regulations.

Connie: Part of it, Jim, was with the reapplication and reapplication is that once a plan goes through the Supervisors and they give approval, that application is done. Those conditions have to be met. If you want to change the conditions, you have to come back through the process. I

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Joe: That's what I am talking about. If I have a house and a garage, and I want to open up a small business in my house and store stuff in my garage.

Gary: If you're talking about something called a no impact business where you were selling stuff from your home and needing your garage for storage, there was no public traffic coming in probably not because there are already provisions in the SALDO for no impact home-based businesses. But when you get into situations where for example you have an existing house and a separate garage that has already been used for a commercial use, then if it was in use prior to 2006 when the ordinance came in it would be non-conforming you would be able to come in and continue that use. Going back to what you were taking about, Jim, there is nothing that prohibits an existing commercial building from being used for commercial purpose. The only thing you have to take into consideration is the nature of the use. Depending on what the commercial operation is there are other ordinances that come into play. The Sewage Facilities Act comes into play. So there is a difference between a 1 or 2 man repair garage in terms of what type of sewage controls are necessary as opposed to having a retail business or a car wash. There are different types of requirements for water, sewage and land development requirements depending on how big the commercial development is, but you can still do these things from a practical standpoint. It's just what you have to go through to satisfy other requirements. There is nothing to preclude you from doing it.

Jim: If there is nothing done to it.

Gary: If the use is going to stay the same, then there is not going to be an issue.

Connie: Don, you really didn't have your question answered.

Don: What's to determine the difference between commercial and residential use. Say I have a garage on my property and I decide I am going to change the neighbors oil and I take money for it, am I commercial?

Gary: That is the never-ending problem. Chances are that is not going to be a problem.

Don: But you're saying it could be.

Gary: Let's say you bring your neighbor's car over and are changing the oil for them and they slip you a couple bucks, I don't think you're going to get into any trouble for doing anything like that. But if you neighbor tells ten other neighbors then all of a sudden you have 20 cars parked outside garage and have them lined up all over the place, when does you doing someone a favor who slips you a couple bucks turn into a business. It's a problem. There is no real good way to define it and has to be done on a case-by-case basis.

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SALDO that are zoning related which need to come out. I am saying that publically. So this accessory building we are discussing probably is misplaced. We don't have zoning and how you use your property is up to you. However, when you have a commercial business you affect the community so there is a little bit of structure in a SALDO that is categorized to help the Supervisors protect the community. You need to provide parking and other things.

Joe: What Gary was saying about the auto business. Say I am going to build a 10,000 sf building, is that a problem here in Salem Township?

Gary: The question is going to be whether or not you are doing it on the same property you live on. If you have your house on five acres of ground and you want to put up a repair garage and are going to put a 10,000 sf commercial use on that property, you are going to be able to do that but you are probably going to have to comply with the SALDO because it is going to implicate off-street parking and other types of area requirement. It could implicate storm water management plans, erosion and sedimentation control plans. You would have to comply. You would still be able to do it because there isn't any zoning out here, but you may have to comply with some other ordinance in order to get it in.

Joe: Is that in there now?

Gary: Well if you were to do that now, you would have to come in under the SALDO and go through planning, but there would be nothing to stop you from a zoning perspective.

Madchen: Say you purchased a property and there was already a big garage on it.

Gary: It depends on the conversion. If you are buying a piece of property that has a house and private garage on it, there is nothing to prevent you from using the house and private garage if you are using it accessory to the home. If you are going to convert that garage into a commercial use then it implicates other things, more public related things, that would require you to come in and file a land development application.

A resident asked if that is right now or after this?

Gary: That's right now.

Don Miller: Addresses Jim Daniels saying it is already commercial, right? What determines the line if it is commercial?

Gary: If you have a house and there is already a commercial business on it.

Jim: It is not a house, it is a building. You know which one I am talking about.

Gary: Yes, but that's not what she is talking about.

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do not flow very clearly. I anticipate that sometime earlier in 2025 we are going to propose some changes to the actual process on how to file these applications and how to review them.

Joe: So my question is now we are talking about these definitions, but next time we could be talking about something else and go down the line to the elephant in the room...zoning. No one in this room wants zoning, no one in Salem Township.

Gary: No. That's not going to happen. There are a couple of things like your ordinance doesn't define an accessory structure or an accessory use, and that's important from a development standpoint.

Joe: What do you mean by an accessory structure?

Gary: For example, if you have a house and you want to build a garage. A garage is accessory to your house because it's a lesser anticipated use. If you are a commercial business like an auto repair business, and you want to expand your business. You have a mechanical repair building but want to build a separate building on your property for painting. That could be considered an accessory structure. That may be treated differently under the ordinance in terms of setbacks. For now, buildings like garages that are under 1000 sf in size have different set back requirements than something larger than 1000 sf. Also, when you have a business that may be expanding into other areas, what is or isn't included in a lesser use in an existing business type enterprise. A good example, you have a hotel and you want to change a portion of the interior for banquet facilities. There is going to be a question as to if that is going to be a lesser included accessory use to the hotel building. Because if you have a hotel and are taking out 10 rooms that may be occupied by generally 20 people has certain limitations on off-street parking. But if you are going to take that same area and fill it up with 200 people for a reception or something along those lines, that implicates off-street parking. We don't really have a mechanism for addressing that right now under the SALDO. So those are the types of changes you might see coming down the line.

Matt: So I have a building of 10,000 sf. This is going to stop it?

Gary: No. You can still build it as long as you comply with the setbacks.

Connie: Let me address that. Under these definitions, there is an addition of an accessory building.

Gary: To a commercial property.

Connie: This is just a Subdivision and Land Development Ordinance. Under the MPC you have to write your language under a completely different section. But there are certain things that don't belong in a Subdivision and Land Development Ordinance, and there are things in our current

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Madchen: Brought discussion back to the number of days to dispute the fees.

Connie: Explained the section again. The MPC allows 100 days. The revision proposes 45 days. A previous discussion kicked around 60 days. What are your thoughts.

Gary: It probably should be 100 days.

Madchen: Isn't 90 days sort of a set standard?

Connie: Just putting it out there for discussion. I think it may be something we consider increasing. Anything else?

Tom: The only thing I want to see is if they do it by resolution that they have data to back up their reason for increasing the fees. Not just come out and say we are increasing fees by 10% or 20%, or reduce them by 10%, but they should have some backup data whenever this is done. Not just at the whim of the Supervisors.

Gary: They already have data to set fees.

Tom: But I mean it should be presented along with the increase or decrease, attached right to that resolution.

Connie: We actually did pass a resolution in 2011, so the fees were increased. There is a 'whereas' clause in the resolution explains that the cost to the Township has increased so the fees were raised a bit. The second section on the agenda is 501 and Article VII which deals with the definitions of minor subdivisions, lot line revisions. Does anyone have any thoughts on that?

2. Discussion to amend Section 501 and Article VII of the SALDO relating to the definition of a Major Subdivision, Minor Subdivision and Lot Line Revision

Discussion:

QUESTIONS:

Joe Pinskey Jr: I heard you say that your first stab at this was pretty intense and it was too complicated, so this stab at it is going to be simpler with only 3 things. Does it stop here or is it the plan to redo this whole SALDO?

Connie: There is definitely a plan to change the process and get the wording clearer so that when you bring an application to the Township both you and the Township knows steps have to be followed. Right now we have some redundancy with multiple ordinance lumped together so they

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Jack: My comeback would be that the more opportunities you give the Supervisors to address the fees, you are giving them an opportunity to increase the fees every year. Leaving it open like this, they probably won't review the fees every five years.

Lisa: What could happen, they don't revise it and don't look at it, and then there are items that need to be reviewed by our professional consultants, by anyone else that's involved in approvals that then brings the fees back to the taxpayers which is the place we are at now. Where a lot of things happen and we are not taking in the right amount of fees. I understand there needs to be some type of balance.

Jack: We are just giving that type of authority to the Supervisors.

Connie: That sentence has always been in our SALDO. Fees have always been set by Resolution.

Lisa: I think they should be set by resolution, but should be more structured, more cut and dry.

Connie: So language "from time to time" or "as the need arises"?

Lisa: What is the need? That is the big question?

Paul: I think as long as it isn't costing the taxpayers any money, then that's how it should be left for them to raise it as needed. So when someone is doing a project, it isn't costing the taxpayer but is costing that individual or company. That's how the Supervisors should adjust it by resolution.

Connie: We are also going to be working on streamlining the process in the future, requiring the applicant to provide more information. As Gary said, Kelly, myself, Gary, we are running around getting bits and pieces of information, hounding for information. That really isn't our job and that raises the fees on everybody. So bringing that process into line is going to help keep the fees lower. We are even considering requiring a deed so you don't have to go back to square one but have something to work with. That will help. But as far as a resolution, it is still done at a public meeting. It does not need advertised. The Supervisors have been pretty good at discussing things like raising fees. It is generally done around budget time when all those financial things are coming into play.

Gary: The one thing that is already built into the ordinance is right out of the MPC, is that the Supervisors can't hold up approval of a plan based on dispute of a fee. So a developer is protected along those lines.

Connie: Anything else on fees? You will have another opportunity to discuss the fees with the Supervisors at the public hearing.

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structure stating that something happening in the Township was the cause to raise fees. I would like that to be clearer. It is a little concerning to me as a resident.

Gary: That is the purpose of doing this by resolution so there could be flexibility in the changes

Lisa: But if there is no public meeting, and a resolution can just come to a regular Supervisors' meeting then it's very simple, not to say that the current Supervisors but that could change, could potentially change that fee structure at any time.

Gary: That's correct. Under the law in PA, the Township cannot set a fee that is unreasonable or not reasonably related to the charges they impose. Historically, if the Township is spending \$500-600 on a minor subdivision review, they would not be able to come in by law and enact a resolution that charges people \$5000. This is designed to give the Supervisors flexibility to change, and it is up to them if they feel it is necessary to change them. I would hope that living out here for a long period of time and given the fact that we've gone 18 years without making any changes in the fees, I don't think you are going to see them change every three months. They just need some flexibility to change them in the event costs go up or other circumstances develop that would require them to change.

Madchen: That helps. So this process doesn't have to happen every single time by having that in there, we don't have to have a meeting every time.

Gary: That's correct. You don't have to advertise or have a public meeting. It is going to cost the Township a couple \$1000 just in advertising charges, court reporter fees, and the time we are all spending in these meeting to make even the minor changes we are making now. You don't want the fees in the ordinance.

Lisa: No. I'm not asking for that. I am just asking for some clarification as to when that could happen. Is it reasonable to say that it could happen yearly?

Connie: I'd say a lot of municipalities do review their fees almost yearly, but that doesn't mean they are all going to increase or significantly increase. We did add the language out of the MPC that allows those fees to be challenged. I do have a question. The MPC allows 100 days after a developer is presented a bill to challenge or dispute the charges. It is not our recommendation but what has been presented to the PC is 45 days. Do you have any thoughts on how long, as someone who is going to be doing a major subdivision or large land development, would be reasonable so that the Township is not held up too long because things do change over time, but what would be reasonable?

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determine what it is. If you get into something major there is some protection in here for establishing escrows when the time that is going to be invested in them is going to exceed what the base fee would be.

Connie: If you have an opportunity to look at some neighboring municipalities fee schedule, it would be a little clearer. I have two examples where only a minor subdivision involving only a lot line change in Penn Township is a \$400 municipal fee which would be similar to our Application Filing Fee and an engineering fee of \$550 plus time/material if needed. That is where there would be an itemized bill for that engineer's review of the lot line. Their major subdivisions are \$4500 with an engineering fee of \$6000. Their fees are expensive. They are broken down into what they are for. Penn Township does not get into a lot of legal fees until you get into land developments. Hempfield does the same thing. Major subdivisions are \$1000 plus \$4500 in an escrow that your engineer and solicitor would bill against. Minors are \$250. The fees would be broken out and be very clear. The language in the SALDO just enables us to set the fee schedule. The fee schedule would look something like this in Resolution form. It will be available to you before the Supervisors adopt it. They don't require any advertising but are passed at a public meeting. It would be spelled out for you.

Madchen: The wording is not clear. He said it is not his intention to have it be one way or another but it is not worded that way. And being that this is such a big thing to make changes to the SALDO, why not word it right since you are going it?

Gary: The SALDO is an enabling ordinance that tells the public what the Township can charge for and how the charges may be broken out, but the resolution would actually set the charges and how the charges are broken out.

Connie: Originally what you are suggesting and what was in our ordinance originally, it had the actual fees built in there, so every time the Supervisors want to change the fees, they have to go through public meetings and public hearings.

Madchen: I understand you don't want to have to go through this every time, it is just very open-ended and confusing. You are talking about combining paragraph B in to A so there is a flat fee for this but it doesn't state that in here at all. It seems to say you have B plus A and possibly C, depending on what category you are, and there is no end.

Connie: I think a fee schedule would clear that up a little, but I appreciate that. We will definitely pay attention to this so that everyone knows exactly what is expected. Anything else on the fees?

Lisa Segina: Questioned Section F for the modification of fees wording "at any time hereafter" stating it is a little vague. Suggested possibly adding some reason why they would change the fee

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a side-lot addition, generally, I am spending an hour of my time pulling deeds, making sure people own the property they say they own, making sure that if there is a trust it is somewhere we can find it and that they comply legally having standing to file the application. That is usually something that is pretty general and takes about an hour of my time. The Supervisors would set a fee for a side-lot addition that would be a combination of the Application Filing Fee and what I would think would be my services or Doug Regola's services and that would be the flat fee. As you go up the ladder to minor subdivisions, major subdivisions and land developments the amount of time that we are putting in from a professional standpoint generally increases. Now there are going to be times when there might be a side-lot addition that is problematic and the Township might wind up taking a hit on the overall fee, but there are probably going to be more times than not that the fee that is charged is fair or is adequate to cover everybody's costs and it is a wash. And the same thing would happen going up the line. So if you get into a minor subdivision where there are more lots to be conveyed and more work to be done, the Application review fees would be higher than when they were going to be combined with the application filing fee. The only time you would get into the larger scale projects where you would be requesting escrows is if you are getting into major developments where we know we are going to be having multiple meetings. Where Kelly is probably going to be overseeing the submission of 17 different revisions to plan with multiple planning commission meetings. Doug Regola and I end up working with engineers and the developers themselves to ferret out issues associated with certain aspects of the project. Those larger fees would then be rolled in with the Application Filing fee to get to an \$850 - \$1000 number. If we get to where we could exceed those amounts, we would ask for an escrow.

Madchen: Are you saying that the Application Review fees will be put in with the Application Filing fee? They are not going to be a separate fee?

Gary: I did intend that anyone was going to pay anything except a flat fee for anything associated with a minor subdivision or a lot-line revision. In some cases, even major subdivisions and land development applications may not get in to an escrow because the initial fees are going to be higher. We know that the initial reviews are going to be higher based on what we have done historically and the time that it takes is going to be more. We are trying to build that in on a flat basis. Sometimes the Township might take a hit on the minor subdivisions and side-lot additions, but the goal is to make sure the Township does not take a hit on the major subdivisions and land developments applications. That way you are not getting into a situation where you may have a mom and pop side lot addition or minor subdivision that is a little more problematic that may take a little more time on our end but I don't know that you want to start billing people on an hourly basis for every minute of work that is being done. That might not be fair too. The idea is to set a standardized fee for each type of subdivision application or land development application that comes in that is going to be a fixed and standard fee that everybody can easily know and

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could refer it to the Township engineer for review and he would be able to bill against that escrow. He would provide the developer with an itemized bill. The developer would have an opportunity to contest some of those fees. That language that protects the developer as well from open-ended fees is going to be added as part of these revisions.

Jack Dunaway: The definition of minor subdivision is the only thing we are talking about tonight. It is different from major subdivisions. By definition of what a minor subdivision is almost eliminates things that would be necessary to review in depth or even require professional time except for Gary's, which he is involved in every one.

Connie: So maybe the definition, as well, as Jack said would help categorize where these fees are going to fall.

Madchen: Yah. If it is professional only, then it is the professional consultants

Connie: I believe the Application review fees pertain to the professional consultants.

Madchen: It does not say that.

Gary: It does say that.

Connie: Read a portion of Section 208(B) referring to professional consultants reviewing and reporting on the application, and Section 208(C) is the definition of a professional consultant. Some of the language in this revision is actually word-for-word out of the Municipalities Planning Code (MPC), but I agree it needs to be clear to the residents and developers so you know exactly what you are up against and that you don't get sent in one direction by one person and in another direction by another person. We do not have a planning director so this is a joint effort. We try to all stay in our own lanes and do our part but it is a process we haven't done before and it's being addressed because we have so much more development than we've had before. I appreciate your comment.

Madchen: What do you constitute as the difference between paragraph B and paragraph C?

Connie: Paragraph C is just the definition of a professional consultant, but the fees are set in paragraphs A and B. We are addressing the definitions (type of subdivision) in the Definitions section so they are together. Paragraph D is the section that allows the developer to question the bill and arbitrate. Paragraph E is the section I had questions about the escrow which seems redundant with Application fee.

Gary: The way it is intended to work is that every application that comes in going to be subject to some form of a flat fee. The flat fee is going to include the Application Filing Fee and the Application Review Fee. Based on what I have been doing over the last few years, that if I get into

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Gary was talking about are the actual review fees where there are consultants like engineers and solicitors.

Gary: Well, some. Because even minor subdivisions are going to be looked but those are going to part of the what you were calling the standard application fee. There wouldn't necessarily be a separate deposit required for those. The general reviews that I might be doing or Doug Regola might be doing would be encompassed within that fee.

Connie: Are you suggesting that the application review fee is paid and not reimbursable or part of an escrow? These definitions have been confusing. These definitions are not reading the way they are being explained and is creating some of the problem.

Gary: Yes, you are not getting into the escrows or the recoupment of fees unless you are dealing into a major subdivision or a land development. Every application that comes in is going to be subject to an application review fee because they all get reviewed. The only question is whether or not you are going to escrow for amounts and for charges for professional consultants that would exceed the normal application review fee.

QUESTION:

John Wright: Pertaining to the fees, it appears that the application filing fee is a fee schedule. Reading between the lines, it appears the application review fee is a rate schedule that is open ended. As a resident, my strong preference would be if we have simple definitions of minor subdivisions and side lot additions, they should have simple application review fees. They should not subject to an open-ended rate of which there is not very much control.

Debbie Perino: But then the taxpayers front some of that like anything Gary does for Miranda or Totteridge. If you look at Gary's bills those are all rates that goes through the Township.

John: That is why I am saying it should be limited. Set fees should be limited to minor subdivision and side lots. It (the revisions) already calls out a separate differentiation on major subdivisions which requires escrow. At that point, to me, why not add at that point that the Application review fee will be rate dependent and not a fixed fee.

Madchen Mahkovic: The application review fee is very vague. How many times can something be reviewed and charged again, and what cause it to be reviewed again. That is a very open-ended, vague, confusing paragraph. The Application review fees seems to be a massive loophole and too open-ended.

Connie: Explained that other municipalities establish some type of an escrow so that when a plan comes before the PC and there is an issue with say something like the layout of the roads, we

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Debbie Perino: What are the prices going to be? Who sets them? Does the planning commission suggest fees?

Connie: Explained that a fee schedule will be set by resolution, which will be adopted at a public meeting. The Supervisors ultimately approve them. Currently no fees have been suggested. We have been trying to have that conversation to get that information.

Gary: Supervisors asked me a couple of years ago to start tracking my time on a plan by plan basis in order to get some idea on how much time I was spending on different types of developments. That would go into the calculation along with Kelly's devoting her time to administer applications. For professional consultant fees, we are limited to charging the hourly rate we are currently charging the Township. For the overall filing fees, I would probably recommend to the Supervisors somewhere between \$850 - \$1000 for a major subdivision or commercial land development, somewhere in the \$400-\$500 for general minor subdivisions, and \$250-\$300 range for a side lot addition.

Question:

Debbie: So when they are ready to approve this, those fees will be in the ordinance for the public hearings?

Gary: No. the fees will be set by Resolution. So the Supervisors can change them at any time, but they still have to set them by resolution and they adopt them at a public meeting.

Debbie: Will it be before this passes?

Connie: The fee schedule will be passed in conjunction, or at the same time, as the revisions. I am hoping there is going to be a fee schedule available before this is enacted.

QUESTION:

Connie: Gary, when talking about the review fees, are you referring to the filing fee or the review fee? The application filing fee that really does not involve any consultants. It is just typically Kelly's time, my time is donated, making sure the application has all the pieces.

Gary: Those are the things the Supervisors are going to have to set based on their conversations with you and Kelly about how much time is actually involved in the initial application process.

Connie: When the initial application comes in and all plans and paper work are submitted there will be a nominal fee, an application review fee. Then when it gets sent out for comment, the fees

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are thinking that the modification fee is going to go away and will be built into the actual charge for the filing fee.

DISCUSSION:

Tom: Explained he is still concerned about the lot sizes and granting of modifications.

Gary: Stated that Tom has been consistent in making that point, and he understands what he is saying. If we are going to grant modifications and reduce or allow everyone who has a 1 ½ acre lot, which is a ½ acre below the requirement for commercial development, to be granted a modification, why not just reduce the size of the lot in the ordinance. That is something that can be done, it is just not part of what we is being proposed right now.

Tom: Questioned the reasoning behind granting some modifications giving an example of small lot sizes that he felt were unreasonable. The lot was too small for even a septic system.

Connie: Explained that one of the things we have been trying to do is establish some consistent procedure. The process in the past is that everything just got thrown in to a washing machine, agitated around, and spit out. A lot of the plans didn't come before the Planning Commission such as minor subdivisions. Our ordinance said we should. There was a negotiation where Jack and I worked out some things, so that now all plans of subdivision come to the Planning Commission first. We are your citizen board that bridges the demands of developers and the residents to there is balance. Everything is done transparently at a public meeting.

Jack: Comment to Tom that the example he stated would have had the small subdivided parcel designated as non-buildable and would not be eligible for a septic system. Another example is Wendy's that does not meet that requirement (lot size) but are in an area where none of the existing businesses meet that criteria either. If we had zoning, which we don't want, but you could allow for smaller lot sizes in that area of the Township. Since lot sizes are applied to the entire Township, you would not want it to be so restrictive.

Connie: Made comments to get the meeting back on the agenda. Explained that this is just the first step. We are seeing consistent requests for modifications and when we get to the point where we can adjust setbacks, frontages, lot sizes then those suggestions can be made. But at this point in the meeting, the discussion will adhere to the first agenda item to discuss Section 208, which will be completely replaced with the proposed amendment. The amendment breaks the fees down in to Application fees, Application Review fees, and Professional Consultant fees.

QUESTION:

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things. They just didn't feel it was appropriate to do that at this point in time. Please keep in mind, that this is probably the most benign set of changes that I have ever made to an ordinance in the 40 years I have been doing municipal work. When we are doing these changes, we are recognizing that any type of change even back in 2006 that I did not think was any big deal was something very different for the folks in Salem are very independent and like to do what you like to do. Everybody has their individual rights and we try to respect that. So this set of amendments was a very modest set of amendments that are being proposed to actually benefit the people we have seen coming in front of the Planning Commission and Supervisors, both the small mom and pop developments, as well as the bigger developers in terms of getting them to pay their fair share of expenses. Every portion of the ordinance can be amended, but we thought this was the best way to start the process.

DISCUSSION:

Connie: It has been a year, maybe two, that we started talking about revising the SALDO. Jack Dunaway was the Chair then. The first stab at it did not go over well because it was an overhaul of so much of the ordinance, so the Supervisors suggested taking a couple sections we knew were problematic, and the fees were one. The definition of the types of development also, so we could structure those fees more fairly were really the two we decided to tackle. Also while we were at it, follow through with what the courts probably wanted you to do back in 2006.

Gary: Explained an overhaul would have taken a month of these types of meetings and public hearings. Even though I like to get as many amendments through at one time as I can, we recognize an overhaul would have been very complicated and difficult, and not sure if it would have been effective in the process we would have had to follow. So we thought it would be better to do this in a piecemeal fashion in a way that is easily conveyable to the residents.

QUESTIONS:

Tom: Anytime we make a variance (modification), you know we have given so many over the last ten years, if you are going to keep making these modifications, why not just put it in the ordinance. Why make people jump through hoops to get these variances, which is costly to the people who want to do it?

Gary: One of the things you are going to see go away is the modification fee. The way the ordinance is set up now there is a separate charge for the review of a modification. That was originally put in when the Planning Commission wasn't reviewing everything. So under the terms of the ordinance as it existed back then, the ordinance said if there was a modification, then the modification went to the Planning Commission. So there was a number of charges and a number of fees and time or cost that was built into that process that justified charging a separate fee. We

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Thomas Ridilla, Forbes Road: Going back to when the Supreme Court upset the ordinance saying it was illegal, when did we file a suit back that we could still use the ordinance? When was that every done?

Gary: They didn't invalidate the entire ordinance. They only invalidated the addendum to the ordinance. We have a savings clause in the original ordinance that says in the event any portion of the ordinance is declared to be void or invalid that all the remaining provisions that have not been declared void or invalid will remain in full force and effect. So the only thing that was declared to be invalid was the appendix and that was severed off at that time.

Tom and Gary: Discussion about how to look up the court case Range Resources vs. Salem Township for two opinions, the Commonwealth Court opinion and Supreme Court opinion.

DISCUSSION:

Connie explains that the proposed amendments are broken into sections, and that copies are available with an agenda on the table.

On the agenda, the proposed revisions are broken into sections. The first is Section 208 regarding the reimbursement of charges for professional consultants in the planning process.

QUESTION:

Tom: The comment that the County agreed to what we have, but I thought there was a discrepancy in lot sizes with the County being less restrictive?

Gary: Responded that the only thing the County made comment on is what we sent them. There were no proposed changes to the lot sizes, set back requirements or anything along those lines, so the County did not offer any additional comment on those items.

Tom: How does our ordinance compare to the County's for lot sizes and such? The County's ordinance is a lot less restrictive. Why does Salem's have to be so restrictive and costly?

Gary: Explained that the County's ordinance is probably less restrictive than Salem's but it does not have to be. Amendments can always be introduced to reduce lot sizes. Currently, the Township has a sliding scale where the lot sizes are reduced based on availability of public water and public sewage. Salem's lot sizes are fairly consistent with Washington Township.

Tom: Didn't you write the same ordinance for Washington as we have, correct?

Gary: No, totally different. I wanted to do that way back in 2006 but it did not fly with the Supervisors or you, and you were on the committee, because it was too restrictive. Connie was the same way. The Supervisors can always make proposed changes and review those types of

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properties. They don't involve the extension of any new sewage facilities or any major plans. We propose to keep those filing fees lower because they are generally minor and do not require the time or complex reviews making it easier for the residents to get a good service from the Township. We would be amending the definitional section of the ordinance to provide for these different types of applications to come in at a different filing fee rate. Finally, the same Appendix in our ordinance that was declared invalid back in 2008 is still there, which we obviously have not enforced. That appendix would be removed. There are also some provision in the actual body of the ordinance that made reference to the appendix and procedures in the appendix, which would also be removed. That is the nature of the amendments and the basic history of all of this. Procedurally under the MPC, we have to send the proposed amendments to Westmoreland County Planning for comments. We did that and the County sent back some minor suggestions and basically agree that what we are doing is a good thing. The amendments also come to the PC who are obligated to review the amendments and make a recommendation to the Supervisors. So the purpose of tonight's meeting is to take input and questions from the public to get a feel for whether the changes should be made and what may influence the recommendations made to the Supervisors. After public comment is taken and processed, the PC can make motions to make proposed changes to the ordinance and pass them along to the Supervisors. Statutorily, the Supervisors are then required under the MPC to conduct a separate public hearing on those proposed changes with a court reporter present, taking testimony and any evidence presented with respect to the proposed ordinance amendments. After the public hearing, the Supervisors would make a decision whether or not to make any additional changes and advertise the amendments one more time in the form of an actual ordinance amending your SALDO. After that, the Supervisors would vote at a public meeting whether or not to enact any or all of the proposed changes. There are time limitations to hold the public hearings and given the holidays, it is uncertain when the Supervisors will schedule the public hearing. There was some discussion doing it in December, and they may make that decision tomorrow night at their regular meeting then do the advertising.

QUESTIONS:

Matt Schweppe: What is the deadline for this to happen?

Gary: There isn't a deadline on when it must be enacted. If this goes beyond a few months, there are additional advertising requirements. If there are substantial changes made, then the changes have to get advertised again, and may even be a requirement for an additional public hearing. We would like to see everything go in by the end of January or early February.

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being lawfully done. Making sure these things were being corrected. Traditionally the township has been footing the bill for that. And that is one of the things that we thought was inappropriate. we had been operating under an older version of the ordinance that precluded, in an era that precluded, there was case law that made it difficult for the Township to recover the legal fees that it had incurred for the review of these plans. Fortunately, the law changed a bit and the MPC changed a bit, and now we have the ability to put provisions into this ordinance to allow the Township to recover professional consultant fees. Under the terms of the MPC professional consultant's fees include are attorney's fees, engineer's fees, and other professional fees that the township may incur in the review of the plans. One of the things we wanted do in the ordinance was to amend the initial provisions that talk about the assessment of fees and what plans cost and how you go about charging for the review of these plans and to give the Township the ability to collect back portions of its fees, at least for attorney's fees and engineering fees, directly from the developers. So this ordinance incorporates to a large extent the provisions of the MPC and procedures of the MPC that we have to follow in order to recoup those fees. It also requires deposits by developers who are engaged in major developments or are involved in commercial land development applications to pay those fees up front so the Township can bill against them. There is a provision if the developer contests the fee they have rights to appeal to the Board of Supervisors. There is mediation and arbitration that can be engaged in to resolve those disputes. Those provisions were not in the existing ordinance, which is one of the amendments. Another thing it does is take out the methodology through which fees are charged by removing them from the ordinance. We have been operating under the same fee structure since 2006. People have been coming in for large-scale major subdivisions paying the same fees as someone doing a 2-lot subdivision because of the way the fee structure works. By amending the ordinance to remove the established fees from the text of the ordinance we are allowing the supervisors to adjust those fees and set them by resolution, which would be done at the same time these amendments go through. Also, there are different kinds of subdivisions and land development applications. Larger scale developments involve a substantial amount work and are complicated. We thought the filing fees for those types of subdivisions and developments should pay a higher fee. Currently in Westmoreland County, a developer for a subdivision of more than 5 lots or a commercial land development would not pay a fee less than \$1000 just to walk in the door for these filing fees. Right now we are charging about \$250. So the Township has been losing money left and right. So we anticipate the Supervisors will set a higher fee for those types of developments. We are also creating a separate definition for a minor subdivision, currently defined as no more than 6 lots with no new roads or improvements. We would anticipate an increase in those fees as well to be determined by the Supervisors but they would not be as much as the larger scale developments or major subdivision, which would involve public streets or other public facilities. We are also creating a separate definition for side-lot additions which change the boundary lines between two

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wanted to enact a zoning ordinance including the supervisors at the time. So we attempted to put these types of provisions to regulate these surface activities and surface development into at SALDO. There was a lot of discussion over the ordinance. We it went through numerous drafts. One of the ordinance we talked about implementing was a version my office had done was from washing twp but was too restrictive for Salem so we took a version of County ordinance and sort of threw it all together so that we could put the provisions we had previously enacted in the stand alone ordinance into the SALDO so those provision were attached as an addendum to the SALDO, and the existing SALDO was put into place in 2006. It was not the greatest ordinance at the time it was marginally ok for Salem at that time because development or lack of development that was occurring at that time. Notwithstanding the fact that we had put the oil and gas provisions into this ordinance it was still appealed by range resources and other oil and gas producers and the independent oil and gas association of PA thinking it was invalid. We Had full proceedings in front of Judge Ackerman. He found the ordinance was invalid, and the appeal was taken to the PA commonwealth court they found the that the ordinance, at least the provisions that related to the oil and gas regulations in the appendix were invalid. The case was combined with another case out of Oakmont Borough for this position and Oakmont had done a similar type ordinance but under their zoning ordinance. Pa supreme court upheld Oakmont Borough's Ordinance saying that it was an applicable regulation of these developments because it designated where they could go under the terms of its zoning ordinance, but they declined to uphold Salem's Ordinance because they said it actually affected the operations of the industry and how they were going about their business in terms of surface development, what they were doing on the surface, and they found that was preempted by the pa oil and gas act. They threw out in its entirety, declared it to be invalid, our entire Appendix B. We muddled along using the current ordinance from 2006 to date. It has not been amended since. Development in Salem has changed since this ordinance was originally enacted. The pc met 3 times a year. Very little development or subdivision work was going on. Over the last 4-5 years development has changed. More people are subdividing their property. There has been a substantial increase in development along Rt 66/22 corridors. There are people subdividing property to giving property their kids or side lot additions to correcting lot lines. The PC now meets on a monthly basis and in some circumstances has 3 or 4 plans in front of it every month. We got to the point where the ordinance itself became unworkable for not only the PC but for the municipality and residents. One of the things we started to see developing especially with large scale subdivisions and commercial subdivisions such as Miranda, Fusting Centre and Totteridge was that the developers and engineers were not prepared. It generated a lot of additional work by my office and a lot of additional time for PC members and Doug Regola. Working through their plans and essentially doing the work the engineer should have done as a prerequisite before coming before the PC and Supervisors and but also a lot of it was making sure they not only complied with the SALDO but making sure it was

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1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

**John Durco PC Vice-Chair
Paul Holleran, PC member
Connie Mattei, PC Chair
Gary Falatovich, Township Solicitor
Kelly Otto, Township and PC Secretary**

4. ADMINISRATIVE

5. NEW BUSINESS

A. Discussion to take public comment and make recommendations on proposed amendments to the Township's Subdivision and Land Development Ordinance (SALDO).

1. Discussion to amend Section 208 of the SALDO to enable the Township to obtain reimbursement for charges of professional consultants in the planning process.

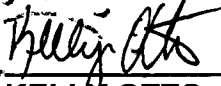
Discussion:

1) Connie: Purpose of meeting is to take public comment to Supervisors to update the SALDO.

2) Gary: Back in 2005 and 2006 the Township was experiencing problems with people who had mining rights to extract coal bed methane barging onto properties with rigs and extract methane. Township had nothing in place to regulate or stop that at the time. Supervisors asked to have an ordinance put in place that would regulate the surface operations of these types of entities and give the Township some ability to stop the process they were engaging. That ordinance was a stand-alone ordinance and was appealed by the Oil and Gas industry declaring it to be invalid. They were right in their assertions and Supervisors were aware of that at the time we were putting it in place. The argument was that the ordinance we had in place was preempted by the PA Oil and Gas Act which precluded municipalities from enacting free standing ordinances to regulate any aspects of the Oil and Gas industry of which the coal bed methane industry indicated they were part of, also that is when Marcellus shale explosion was just starting in SW PA. so the provisions of the oil and gas act at the time said that preemption would occur for all of these local ordinance except ordinances enacted under the provisions of the PA MPC. So there are two types of ordinances under the MPC. Zoning and Land Develop obviously no one in Salem Township

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Meeting adjourned 7:45pm


KELLY OTTO
Salem Township Secretary

Prepared by: Connie Mattei