



DELAWARE TOWNSHIP
COMMITTEE MINUTES
JANUARY 27, 2020 – 7:30 P.M.

Mayor Charles Herman called the regular meeting of the Delaware Township Committee to order on January 27, 2020 at 7:30 p.m., at the Delaware Township Municipal Building, 570 Rosemont Ringoes Road (County Route 604) in Sergeantsville, New Jersey.

PLEDGE OF ALLEGIANCE

All present recited the Pledge of Allegiance.

NOTICE REQUIREMENTS

Mayor Herman read a statement noting the Notice Requirements provided for in the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Hunterdon County Democrat, Trenton Times, Courier News, and Star Ledger, by posting at the Delaware Township Municipal Building, and by filing with the Township Clerk all on January 3, 2020.

ROLL CALL

Present: Joe Vocke, Daniel Kwasnik, James Waltman, Susan Lockwood, Charles Herman
Absent: None

APPROVAL OF MINUTES FROM JANUARY 13, 2020 TOWNSHIP COMMITTEE MEETING

Mr. Waltman motioned to approve the minutes from the Township Committee meeting of January 13, 2020. Mr. Vocke seconded the motion.

Roll Call Vote: Ayes – Vocke, Waltman, Lockwood, Herman
Nays - None
Abstain: Kwasnik

TOWNSHIP COMMITTEE REPORTS

ENVIRONMENTAL COMMISSION

Mrs. Lockwood stated the 50th Anniversary for Earth Day is this year and the Environmental Commission would like to celebrate by possible installing solar energy at Dilt's Park to help with the electricity costs. Mrs. Lockwood reported that Mr. Peter Sudano has volunteered to help with the solar project at no cost to the Township and would like to view the energy bills for Dilt's Park.

Ms. McDaniel will send Mrs. Lockwood the energy bills for her to pass along to Mr. Sudano.

SHADE TREE COMMISSION

Mr. Hornby stated Shade Tree Commission has completed the recommendations for the Ash tree removal at Dilt's Park along the stream leading to Buchanan Road. Mr. Hornby stated the recommendation is to cut the Ash Trees along the stream to a 4' height. This will allow the root base to continue to stabilize the soil while reducing the risk to the public. The cut Ash Trees will then send up shoots for the next couple of years to provide cover for the young trees that will be planted as replacements.

Mayor Herman stated DPW can now cut these trees in this final area at a 4' minimum. Mayor Herman stated the process of getting bids for the trees that DPW will not be able to cut down can now be completed.

DPW

Mr. Kwasnik stated DPW is currently working on clearing out ditches and drain areas to help with flow of storm water. Mr. Kwasnik stated the final section of Ash Tree removal at Dilt's Park will begin as weather permits.

Mr. Vocke stated he met with Mr. Roseberry and Mr. Trstensky to discuss and walk Lower Ferry Road.

Ms. McDaniel stated the Bond Ordinance will be introduced for Lower Ferry Road at the February 10, 2020 Township Committee meeting. Ms. McDaniel stated the Township Committee already authorized the Sanford Road funding. Ms. McDaniel stated the two roads will be bid on at the same time to help with cost savings.

Ms. McDaniel stated Mr. Roseberry and Township representatives will be meeting with NJDEP representative to walk and review Lower Creek Road and review the current stream erosion issues.

WEBSITE

Mr. Waltman stated he spoke with Kevin from Trinity about placing important phone numbers and resource information on the Delaware Township website. Mr. Waltman stated that Trinity will be adding this information at no cost to the Township. Mr. Waltman stated the following will be added to the website:

- Delaware Township Police Department non-emergency phone number
- Poison Control
- Suicide Prevention
- Hunterdon Health Care

Mr. Waltman stated that if anyone has other information or numbers they would like to add please let him know.

RECREATION COMMISSION

Mayor Herman stated the Delaware Township School will be closed this summer while the referendum projects that were just approved are being completed. Mayor Herman stated this has created an issue for a location for Delaware Township Summer Recreation Camp. Mayor Herman stated the Recreation Commission is currently working on a change of location for the Delaware Township Summer camp so that there is no interruption in providing the summer camp for Delaware Township residents.

DILTS PARK

Mayor Herman stated the Girl Scouts would like to do a project to fix the water fountain at Dilt's Park. Mayor Herman stated the Girl Scouts will be working with a plumber to help fix the issue with the water fountain.

MEETING OPEN TO THE PUBLIC FOR COMMENTS ON AGENDA ITEMS ONLY

Mr. Chuck Cline would like to be included in the conversation for Agenda item #9 for the AT&T request.

Mayor Herman stated Mr. Cline may discuss with the Township Committee this resolution when it comes up on the agenda.

RESOLUTION #2020-19 –

DELAWARE TOWNSHIP
RESOLUTION #2020-19

WHEREAS, Delaware Township requires organizations that use Township facilities to complete a Facility Use Agreement and submit a Certificate of Insurance naming Delaware Township as an Additional Insured; and

WHEREAS, the Facility Use Agreement (“Agreement”) is a risk management document to assist Delaware Township at the time of a loss to transfer the risk to the user of the facility for its actions; and

WHEREAS, VFW Post No. 8390 requested a waiver from the insurance requirement for use of Township facilities for its meetings and patriotic activities; and

WHEREAS, the Township Committee approved similar requests in prior years starting in 2012 subject to the condition that a duly authorized officer of the VFW sign the Agreement and acknowledge compliance with all of the provisions of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Delaware, County of Hunterdon and State of New Jersey that it approves a Facility Use Agreement with VFW Post 8390 for use of Township facilities by VFW Post No. 8390 with a waiver of the insurance requirement, said use continuing to December 31, 2020 subject to the following conditions:

1. VFW Post No. 8390’s use may only continue if the insurance underwriting requirements to the Township are not in any way compromised or modified such that the Township is placed at risk for continued coverage or, alternately, continued coverage at competitive rates for premiums.
2. Use is limited to events related to meeting attendance, raffles, flag ceremonies, and patriotic activities of similar scope and manner as specifically listed in the Facility Use Agreement.
3. The duly authorized officer of VFW Post No. 8390 shall sign the Facility Use Agreement and acknowledge compliance with all other provisions of the Agreement during the Post’s use of Township facilities.
4. Any future request for waiver of the insurance requirement as set forth in the Agreement shall be submitted in writing and shall be accompanied by an executed Agreement. The waiver request will be reviewed and approved subject to Items 1, 2 and 3 in this Resolution. In no case will submission of an executed Agreement be waived.

ATTEST:

Jodi McKinney, RMC, CMC
Township Clerk
January 27, 2019

Charles Herman, Mayor

Mr. Waltman motioned to approve Resolution #2020-19. Mrs. Lockwood seconded the motion, and the members approved the motion by roll call vote

Roll Call Vote: Ayes – Vocke, Kwasnik, Waltman, Lockwood, Herman
Nays - None
Absent: None

RESOLUTION #2020-20 –

DELAWARE TOWNSHIP
RESOLUTION #2020-20

WHEREAS, the Township Engineer, by memorandum dated January 13, 2020 (a copy of which is attached), has recommended the acceptance of a Maintenance Bond under the terms of the contract with Messercola Excavating for the Meszaros Road Phase 3 Roadway Project;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Delaware that the following Maintenance Bond be accepted:

Bond No. S-322491 \$23,686.90
(NGM Insurance Company)

BE IT FURTHER RESOLVED that the following payment be authorized in accordance with the Township Engineer's memorandum dated January 13, 2020, a copy of which is attached:

Contract award amount **\$156,827.00**

Percentage of work completed 100%

Payment Summary:

Total (final) amount of work completed \$157,912.69

Amount paid payment request no. 1	\$ 63,897.96
Amount paid payment request no. 2	\$ 89,778.48
Amount Paid Change Order#1 no. 3	\$ 1,078.00

Amount Due Final Payment-Retainage \$ 3,158.25

Messercola Excavating Co., Inc.
549 E. 3rd Street
Plainfield, NJ 07060

ATTEST:

Jodi McKinney, RMC, CMC
Township Clerk
January 27, 2020

Charles Herman, Mayor

I, Diane S. McDaniel, Chief Financial Officer of the Township of Delaware, do hereby certify that funds for this contract are available from General Capital Fund.

Diane S. McDaniel, CFO

Mr. Waltman motioned to approve Resolution #2020-20. Mr. Vocke seconded the motion, and the members approved the motion by roll call vote.

Roll Call Vote: Ayes – Vocke, Kwasnik, Waltman, Lockwood, Herman
Nays - None
Absent: None

RESOLUTION #2020-21 – **TABLED – NOT APPROVED**

DELAWARE TOWNSHIP
RESOLUTION #2020-21

WHEREAS, AT&T Corp., through its operating subsidiary Teleport Communications America, LLC (collectively, “AT&T”), is a communications carrier authorized to provide service by the New Jersey Board of Public Utilities (BPU) and the Federal Communications Commission (FCC); and

WHEREAS, AT&T, as a public utility and common carrier, has requested approval to install communications facilities in Delaware Township rights-of-way; and

WHEREAS, AT&T is seeking to lease or obtain conduit space and access to poles with other utilities, particularly CenturyLink, Verizon New Jersey and Jersey Central Power & Light Co., and these companies have required that AT&T obtain approval of the Delaware Township Committee as a condition of such access;

NOW THEREFORE BE IT RESOLVED BY THE DELAWARE TOWNSHIP COMMITTEE THAT:

1. Permission and authority are hereby granted to AT&T to install communications facilities, or lease or obtain for such communications facilities space on existing poles or in existing conduits, in the public right-of-way in Delaware Township in order to provide communications services to the public, and to operate, maintain and repair said facilities, subject to the following:
 - A. The facilities shall be installed in underground conduit and/or on to existing utility poles in the public right-of-way.
 - B. AT&T, its successors and assigns, shall adhere to all applicable Federal, State, and Local laws regarding safety requirements for the use of the public right of way.
 - C. AT&T, its successors and assigns, shall comply with all Federal, State, and Local laws requiring permits prior to beginning construction.
 - D. Such permission be and is hereby given upon the condition and provision that AT&T, its successors and assigns, not only indemnify and save harmless Delaware Township, its officers, agents, and servants, from any claims whatsoever arising from or in any way connected to the acts or omissions of AT&T in use of the public right-of-way but shall agree on behalf of the Township to defend any action at law or equity which may be brought against the Township upon such claims or from claims arising during the construction period, excluding in all instances claims arising out of gross negligence or willful misconduct on the part of the Township.
 - E. In addition to the aforesaid indemnity agreement, AT&T, its successors and assigns shall at its own cost and expense procure and keep at all times in full force and effect paid up policies for Comprehensive General Liability Insurance in favor of the Township, in the amount of at least \$5,000,000, covering bodily injury and property damage arising out of any one accident. Proof of said coverage, naming the Township as an insured and including the indemnification clause in Section D shall be filed with the Township Clerk prior to the installation of any plant. The Township shall have the right to increase the amount of Comprehensive General Liability Insurance and to alter the terms of insurance called for under this section provided it does so generally for all companies using Township rights-of-way. Said insurance shall not be subject to cancellation or change until thirty (30) days after the Township Clerk has received written notice thereof as evidenced by return receipt of certified or registered letter.
 - F. Such permission be and is hereby given upon the further condition that in the use of the public right-of-way AT&T, its successors and assigns, shall become subject to any lawful Ordinance or Resolution now or hereafter adopted by the Township.

- G. Such permission be and is hereby given upon the condition that AT&T shall obtain all applicable permits which may be required by the Township.
- H. AT&T shall be responsible for the repair of damage to paving, existing utility lines, or any surface or subsurface installations, etc., arising from the construction, installation or maintenance of said plant.
- I. Notwithstanding any provision contained herein, neither the Township nor AT&T shall be liable to the other for consequential, incidental, exemplary or punitive damages on account of any activity pursuant to this instrument.
- J. This instrument shall be adopted on behalf of the Township by the Delaware Township Committee and attested to by the Township Clerk who shall affix the Township Seal thereto. Said execution, approval, and filing shall constitute the existence of public notification.
- K. The permission and authority hereby granted shall be for a period of 50 years. However, after 15 years from the date of this agreement, the Township shall have the right to terminate permission and authority, by Resolution with a minimum one year notice to AT&T to sell or liquidate its facilities in the public right-of-way. Conversely, AT&T shall be allowed to terminate permission and authority, by request of Resolution with a minimum of one year from passage of such Resolution to sell or liquidate its facilities in the public right-of-way.

STATEMENT

This resolution authorizes AT&T to install communications lines within conduit or on existing poles in the public right-of-way in order to in order to provide communications services to the public.

ATTEST:

 Jodi McKinney, RMC, CMC
 Township Clerk
 January 27, 2019

 Charles Herman, Mayor

The Township Committee and Mr. Kline discussed the proposed resolution with AT&T Attorney Jim Laskey and real estate manager Theresa Piscioti. Attorney Laskey stated this resolution was to give permission for AT&T to replace copper wiring with fiber optic cable on existing poles in the right of way to help the public with land line communications. Attorney Laskey stated AT&T would like to start this replacement project in the area of Old Croton Road and Rt 579. Attorney Laskey explained that land lines are now being used to stream music and movies and the copper wiring needs to be replaced in order to give residents more capacity to be able to stream these services.

Mr. Cline has concerns on the how this resolution is written and cautioned the Township Committee to not adopt the resolution without adding restrictions and clarifications to the current resolution.

Attorney Tauriello will work with Attorney Laskey to add verbiage that will satisfy both AT&T and the Township to help clarify and to ensure the Township Committee is authorizing exactly what the Township Committee would like to authorize. The Township committee will table this resolution and will place back on a future agenda once the Township Attorney and AT&T Attorney create a resolution to satisfy both parties. Attorney Tauriello will forward the edited resolution to the Township Committee and Mr. Cline for review before adding this resolution to a future Township Committee agenda.

REVIEW OF MEETING DATES

The Township Committee reviewed meeting dates.

MEETING OPEN TO THE PUBLIC

Mr. Bob Hornby stated Hunterdon County will be re-writing the Farmland Preservation Plan. Mr. Hornby stated Delaware Township has always been very involved in land preservation and he will make sure Delaware Township Open Space and the Agricultural Advisory Committee are kept up to date on the re-writing project.

Mr. Rich McCumber asked for an update on the Sergeantsville sidewalk project.

Mayor Herman stated the project is proceeding and the concrete that needs to be used for the sidewalk and retaining wall has to be a certain color as per the Historic requirements. Mayor Herman explained the concrete can become a different color than is required if the weather is a certain temperature so the project is on hold until the weather is appropriate.

FINAL COMMENTS OF THE TOWNSHIP COMMITTEE

Mr. Kwasnik will discuss with Mr. Trstensky the Ash Tree removal and the location for the wood that is being removed from Dilt's Park.

Mayor Herman stated he attended the monthly JIF meeting last week. Mayor Herman stated that if Ms. McDaniel is not able to attend a JIF meeting he will be the replacement representative for Delaware Township.

Mayor Herman stated in order to change any Township road speed limits an ordinance will need to be created. Mayor Herman suggested that one joint ordinance be created for any road that has been approved for speed limit changes.

Attorney Tauriello will work with Chief Cane and Jay Trstensky to create the appropriate ordinance for the change in speed limits on certain Township roads.

APPROVAL OF BILL LIST

Members reviewed and approved the following vouchers for payment in the amount of \$755,030.88 at the Regular Meeting of the Delaware Township Committee held on January 27, 2020. Mrs. Lockwood moved to approve payment of the bills on the bill list. Mr. Waltman seconded the motion. Members approved the motion to pay the bills by roll call vote.

BE IT RESOLVED by the Township Committee of the Township of Delaware, County of Hunterdon, and State of New Jersey that the January 27, 2020 vouchers be paid.

Roll Call Vote: Ayes – Vocke, Kwasnik, Waltman, Lockwood, Herman
Nays - None
Absent: None

EXECUTIVE SESSION –

RESOLUTION AUTHORIZING CLOSED SESSION **DELAWARE TOWNSHIP COMMITTEE**

BE IT RESOLVED by the Township Committee of the Township of Delaware in Hunterdon County, New Jersey follows:

1. The Township Committee will now convene in a closed session that will be limited only to consideration of items with respect to which the public may be excluded pursuant to Section 7B of the Open Public Meetings Act.

2. The general nature of the subjects to be discussed in this session is as follows:

- TO DISCUSS LEGAL MATTER ON LITIGATION

3. It is unknown precisely when, if ever, the matters discussed in this session may be disclosed to the public; and matters involving personnel evaluations may not ever be released.

Approval of any agreement with any bargaining unit shall only take place by action of the governing body in a public session.

ATTEST:

Jodi McKinney, RMC, CMC
Township Clerk
January 27, 2020

Charles Herman, Mayor

Mr. Waltman motioned to approve the foregoing resolution. Mr. Vocke seconded the motion, and members unanimously approved the resolution by all in favor vote.

RETURN TO OPEN SESSION

Mr. Waltman motioned to come out of Executive Session. Mr. Kwasnik seconded the motion, and members unanimously approved the motion by all in favor vote.

Mayor Herman announced that all items in executive shall remain in Executive Session.

ADJOURNMENT

Members motioned, seconded, and unanimously approved a motion to adjourn the meeting at 9:25 p.m.

Respectfully submitted,

Jodi McKinney, RMC, CMC
Township Clerk

Approved: (February 10, 2020)

Charles Herman, Mayor