



CHESTER COUNTY COUNCIL MINUTES

**Where: Chester County Government Building
1476 J A Cochran Bypass- Council Chambers**

When: Monday October 3, 2016 – 6:00 PM

Members Present:

Chairman Shane Stuart- Presiding
Council Member Joseph Branham- Vice-Chairman
Council Member Archie Lucas
Council Member John W. Holcombe
Council Member Alex Oliphant
Council Member Mary Guy
Council Member Brad Jordan
County Attorney, Joan E. Winters
Clerk to Council Karen Lee

- I. Call to Order-**called to order by Chairman Stuart at 6:00.
- II. Pledge of Allegiance and Invocation-** pledge was recited in unison and was led by Council Member Lucas.
- III. Approval of Minutes**
 - 1. September 19, 2016 Regular Chester County Meeting-** Council Member Oliphant motioned to approve, 2nd by Council Member Holcombe. Council Member Guy stated the minutes reflected she was not present at the previous meeting but was present. Vote was 6-0 to approve with necessary corrections. Council Member Jordan did not vote for he was not present for the September 19, 2016 meeting.
- IV. Citizens Comments-** No one signed up to speak
- V. Ordinances/Resolutions/Proclamations**
 - 1. 2nd Reading to Approve a Fourth Amendment to the Agreement for the Development of a Joint Industrial and Business Park dated as of December 1, 2008 between Chester County and Lancaster County so as to add to the Agreement Certain Haile Gold Mine Inc. Property; To Correct Scrivener's**

Errors in Certain Legal Descriptions and Tax Map Number Identifiers for Certain Property Previously added and Covered by the Agreement; and to Provide for other matters Related Thereto. Council Member Guy motioned to approve 2nd by Council Member Jordan. Vote was 6-0 to approve.

I. New Business-

- 1. Kotina Feaster- We Build Communities Youth Center-** Ms. Feaster was not present for the meeting.
- 2. Rosalyn Kennedy- Cedar Grove Neighborhood**

Ms. Kennedy thanked Council for given her and other residents of the Cedar Grove Community a chance to speak. Ms. Kennedy stated they had started petitions to have empty lots, dump sites to be cut and cleaned. They also would like the roads to be repaired along with drainage problems. The Cedar Grove Community is clean and safe and would like for Council to help with these problems. Council Member Guy stated she had visited the site and believes a lot of the drainage problem is coming from the old Johnson Laura Mae Plant on the hill. Council Member Guy stated she also reached out to Jeremiah Bradley with the State and was told any repairs to the roads would probably be next year. Council Member Guy stated she would keep in touch with Ms. Kennedy.
- 3. Council Member Joe Branham- Discuss the reason why the ordinance for a referendum to consider the change of government was taken off the ballot.**

Council Member Branham stated he and other Council Members received a letter from Supervisor Stuart Saturday, September 24th but the letter was dated September 19th advising Council the referendum to change the form of government was taken off the ballot due to not enough notice for the paper. Council Member Branham asked why were they not contacted to hold a special called meeting to discuss it. He also asked who gave the Supervisor's Office the authority to call off the referendum and the letter states on Friday September 16th, 2016 the County Supervisor's Office was contacted by the Elections Office to verify the fifteen days of the notice for the referendum was met. He asked Chairman Stuart if it was the State Elections Office or the Office here in Chester that contacted him.

Chairman Stuart stated the State Elections Office from the State contacted the local elections office to verify if the dates were actually correct. The request for the fifteen-day public hearing was sent to the newspaper within the fifteen days however the publishing date for the News & Reporter made it twelve or thirteen days to publish therefore not meeting the fifteen-day requirement. Chairman Stuart stated for that reason he had to remove the referendum off the November 8th ballot since he could not certify the result. Council Member Branham stated they had contacted the State and was told they were contacted by the Supervisor's Office and one other Council Member about the referendum. Chairman Stuart stated he thought Mr. Whitmire was the name that contacted him, Council Member Branham stated he was told they did not contact Chairman Stuart and did not get into the time frame of the public hearing and this was all initiated here in Chester from someone in the Administrator's Office and also one Council Member.

Council Member Branham stated Chairman Stuart crafted a letter to Terry Graham, Voter Registration Director for him to forward it back to the State to take it off the ballot and Chairman Stuart got the letter there two minutes before the deadline. He also stated why Chairman Stuart did not call Council to set up a special called meeting to discuss this. Council Member Branham stated Mr. Graham had stated in the newspaper this should have never happened this way, it should have run its course and been up to the State's Election Office to decide what to do.

Council Member Branham stated a professional administrator would have never let this happen. Chairman Stuart stated if Council had been more proactive in hiring a Clerk to Council this would not be an issue since no one was hired for a year and a half. If the Council had hired someone this would have been caught, but since then a Clerk to Council Ms. Lee has been hired and these issues should not happen. Chairman Stuart stated he knows Council Members professionalism and expected that to be a two-way street that Council would give us the support that we need. Council Member Lucas stated he felt like he was being blamed for all of this according to the article in the newspaper. He stated at that time last year he told everyone he was the Interim Clerk to Council and would sign off on paper work only. Chairman Stuart stated he did not blame Council Member Lucas and could not help what the newspaper prints.

Council Member Jordan stated was it his understanding if the timeline had not been challenged the referendum would still be on the ballot and if there was any type of judicial remedy for the timeline. County Attorney Winters stated there is a couple things Council can do, in anticipation of Council asking this question she spoke with the State Elections Commission Marcy Andino the Executive Director. She went on to say the reason for the deadline Chairman Stuart responded to was they were military ballots and had to be in the mail by the twenty-fourth of September that was the deadline he referred to in his letter. Attorney Winters stated Ms. Andino stated if Council called her tomorrow she would be willing to put the referendum back on the ballot and re-mail the military ballots, that is one option. She also stated she told Ms. Andino about the fifteen-day problem, Ms. Andino indicated they would still put it on the ballot.

Council Member Jordan asked what would happen if someone challenge the time line. Attorney Winters stated Ms. Andino could not make any promises but when you challenge a time line on an election challenge you can prevail if it can be proven the failure to follow the statutory components would significantly affect the outcome of the election. Ms. Andino did not know how the Election Commission would rule on it. Attorney Winters stated the statute provides for these referendums being called by the governing body in which Council did and does not have to be on the general election ballot. The Council can call for a special election under State law 4-9-10 this would be the second option. The third option is a petition from the voters.

Council Member Oliphant asked who took it off the ballot. Attorney Winters stated she asked the same question and if Mr. Graham could do that, Ms. Andino stated Mr. Graham is at the will of the governing body, meaning Mr. Stuart, so when presented with the letter by the governing body, Mr. Graham is charged with the responsibility to do that. Attorney Winters asked Ms. Andino would it have been prudent to call a meeting of his commission and Ms. Andino stated he would not have had time to do that. He apparently had fifteen minutes before the deadline to do it. Mr. Graham did check with the State Elections and told them about the letter and ask what to do, Mr. Whitmire told him you have to do what the governing body is

telling you. Attorney Winters stated Mr. Graham had no authority to challenge Mr. Stuart. Council Member Guy stated since she is a part of the Council and it was mentioned that the Council should have elected a Clerk to Council and did not think that was the problem. She went on to say they had not had a Clerk to Council in a year and most of the legal things has been done on time and properly by your Administrative Secretary and she has done a good job. And she does not think by not having a Clerk to Council at that time was the problem. Council Member Branham stated Mr. Stuart's administrative assistance sat at the table at every meeting and stated she was sent to the Association of Counties for training. Chairman Stuart stated she did not receive all the training but some of it. Chairman Stuart reminded Council Member Branham about slander, to be careful what he says about her. Council Member Guy stated she was not slandering her but saying she has done a good job and carried all the other legal papers to the proper channels without the Council having a secretary and it still should have been her responsibility.

Council Member Branham agreed with Council Member Guy asking how is that slandering her, she is under your direct supervision. Council Member Oliphant asked County Attorney Winters to explain the legal process of the timeline for the first, second and third readings and when is the legal notice required. County Attorney Winters stated she has always recommended to the Clerk and with Ms. Lee when you put the first reading of ordinance on an agenda, figure out when the public hearing will be, prepare the notification and send it the newspaper the following day. There was ample time for the ordinance to be published since the first reading was July 5th and the public hearing was July 25th. It has to be fifteen days for the public hearing which is actually the 3rd reading.

Council Member Jordan asked if the special election would be there best option. Council Member Branham stated the special election could be called between now and two years and would not interrupt Mr. Stuarts term. County Attorney Winters stated that was correct, but Council does not have the approval of Justice since the ballot came off and still has to go through the ninety days to approve or deny. She also stated she likes clean slates and did not think making the phone call to Ms. Andino to put it back on the ballot would work. You would have to start over with a new ordinance because Council has had a public hearing even though the public hearing was late, there has been a public hearing but would still have to start over with a new ordinance and would be the same with a public hearing and three readings.

Susan Cok- Approval of Lawn Maintenance bid RFP1617-03

Chairman Stuart stated they had issues with the lawn maintenance care they had contracted and was not living up to the standards. Mrs. Cok stated the low bid was \$ 1,253.00 and the bid prior to this was \$800.00 per cut, so there is a difference of \$453.00 dollars more that will be paid out. But they did extend it to a 13-month contract verses the 8-month contract for the last one. It is more but will be getting a better job. Council Member Oliphant motioned to accept the low bid of Corry Landscape, seconded by Council Member Holcombe. Vote was 6-0 to accept bid.

4. **1st Reading to adopt the Planning Commission's recommendations for the following:**
 - a. The Planning Commission voted 4-0 to approve Dr. Bertha Roddey request, Tax Map # 142-00-00-079-000, 7.612 acres located at 4663 Catawba River Rd, Catawba, SC

rezone from R2 (Rural Two) to RS1 (Single Family) Council Member Guy motioned to accept the Planning Commission's recommendations, seconded by Council Member Jordan. Vote was 6-0 to approve.

- b. The Planning Commission voted 4-0 to approve Douglas Korfel request, Tax Map # 069-07-06-010-000, 7.00 acres located at 759 J A Cochran Bypass, Chester, SC rezone from RG1 (Multi-Family) to ID1 (Restricted Industrial) Council Member Oliphant motioned to accept the Planning Commission's recommendations, seconded by Council Member Lucas. Vote was 6-0 to approve.
- c. The Planning Commission voted 4-0 to approve Rob & Lisotte Authier request, Tax Map # 156-01- 08-009-000, 6.00 acres located on Hopkins Road, Fort Lawn, SC rezone from R2 (Rural Two) to RG2 (General Residential) Council Member Jordan motioned to accept the Planning Commission's recommendations, seconded by Council Member Guy. Vote was 6-0 to approve.
- d. The Planning Commission voted 4-0 to approve Amending the Chester County Zoning Ordinance Section 4-119 ID1 Restricted Industrial District Uses adding #4 Solar Farms to Conditional Uses. Council Member Oliphant motioned to accept the Planning Commission's recommendations, seconded by Council Member Jordan. Vote was 6-0 to approve.
- e. The Planning Commission voted 4-0 to approve Amending the Chester County Zoning Ordinance Section 4-121 ID2 Restricted Industrial District Uses adding #3 Solar Farms to Conditional Uses. Council Member Lucas motioned to accept the Planning Commission's recommendations, seconded by Council Member Jordan. Vote was 6-0 to approve.

II. Boards and Commissions

- a) Re-Appoint Mike Wylie to the Chester County Zoning Board of Appeals Commission- County Supervisor Chairman Stuart motioned to re-appoint Mike Wylie to the Chester County Zoning Board of Appeals, seconded by Council Member Oliphant. Vote was 6-0 to appoint.

III. Executive Session Council Member Holcombe motioned to go into executive session, seconded by Council Member Jordan. Vote was 6-0 to go into executive session.

- 1. An Economic Development matter to discuss Project 1631
- 2. Review legal/advice on contractual matters (action item)

IV. Council Actions after Executive Session Council Member Guy motioned to go back into regular session, seconded by Council Member Holcombe. Vote was 6-0 to go back to regular session.

1. Action taken regarding Economic Development Project 1631- Information only was taken and no action was taken
2. Action taken on review legal/advice on contractual matters- Chairman Stuart asked if he had a motioned to approve the first reading to purchase Tax Map # 076-00-00-026-000 for property adjacent to the airport, Council Member Branham motioned to accept, seconded by Council Member Oliphant. Vote was 6-0 to approve.

V. **Council Comments-** There was no Council Comments

VI. **Adjourn-** Council Member Lucas motioned to adjourn, seconded by Council Member Oliphant. Vote was 6-0 to adjourn. Time was 7:40 pm.

**K. Shane Stuart, Council Chairman
& Count Supervisor**

Clerk to Council, Karen Lee

Pursuant to the Freedom of Information Act, the Chester News & Reporter, The Herald in Rock Hill, SC WSOC-TV, Channel 9 Eyewitness News, the Mfg. Housing Institute of SC, WRHI Radio Station, C&N2 News, WCNC News and Capitol Consultants were notified and a notice was posted on the bulletin board at the Chester County Government Building 24 hours prior to the meeting.