

January 22, 2018
7:00 p.m.

The regular meeting of Doylestown Borough Council commenced in Council Chambers, with the following members present: President Jack O'Brien, Vice President Noni West, and Council Members Ben Bell, Don Berk, Tim Brennan, Joe Flood, Joe Frederick, Sue Gordon, and Wendy Margolis. Also present were Mayor Ron Strouse, Junior Councilperson Josie Hall, Borough Solicitor Jordan Yeager, Borough Engineer Jim Dougherty, Borough Manager John Davis, Planning/Public Works Director/Deputy Borough Manager Phil Ehlinger, Water Director Chris Norris, Finance Director Caroline Brinker, Central Bucks Regional Police Department Chief Donnelly, and Director of Building & Zoning Karyn Hyland.

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

SPECIAL PRESENTATIONS

Mayor Strouse commented that this was a melancholy occasion when we thank our volunteers who have served on boards and commission for the Borough and also say goodbye to them. He then made plaque presentations to: Richard Hansen, for his dedicated service on the Planning Commission, 1998-2017, and the Environmental Advisory Council, 2008-2017; Lisa Farnin for her dedicated service on the Fanny Chapman Pool Board, 2012-2017; Al Krach for his dedicated service on the Fanny Chapman Pool Board, 2012-2017; and Joe Shandlay for his dedicated service on the Environmental Advisory Council, 2012-2017.

APPROVAL OF MINUTES

Mr. O'Brien called for a motion to approve the December 18, 2017 Council Meeting minutes. (Frederick-Berk) With no comments, the vote was called, and the minutes were unanimously approved.

Mr. O'Brien then called for a motion to approve the January 2, 2018 Reorganization Meeting minutes. (Margolis-Flood) With no comments, the vote was called, and the minutes were unanimously approved.

MAYOR'S REPORT

Chief Donnelly joined Mayor Strouse and President O'Brien on the floor. Mayor Strouse noted that two weeks ago, the Central Bucks Regional Police Foundation hosted a retirement dinner for the Chief. The Foundation is one of the many institutions associated with our police services that the Chief is very much responsible for. He said there were tributes from political dignitaries, family, and other police which, in some ways, probably carried the most meaning. Mayor Strouse said long before Chief Donnelly was Chief of the CBRPD, he was Chief of the Doylestown Borough Police Department for almost 20 years. He thanked the Chief for his service and for making our community what it is today, and for putting community policing in capital letters in terms of police work in the Borough. He congratulated the Chief on his retirement. [A framed

picture of a 1957 police car that won the award of "Best Car" in the Rotary 2017 car show was presented to the Chief from the Mayor, Council Members, and Manager John Davis.]

Chief Donnelly thanked the community for accepting him and letting him do what he did. He also thanked all the Councilpersons over the years, who were very supportive of him and the police officers.

PUBLIC SAFETY - Ms. Gordon

Ms. Gordon reported the committee did not meet in January, but she did have a couple items:

1. **Consideration of Ordinance No. 2018-2, Creating a Handicap Parking Space on Decatur Street.** Ms. Gordon stated that the Public Safety Committee received a request from the residents of 89 North Clinton Street for the installation of a handicap parking space on Decatur Street just east of its intersection with North Clinton Street. She said the Committee considered the request at their December meeting and in January, recommended that Council authorize the drafting and advertisement of the ordinance creating the handicap space. The ordinance has since been properly advertised. Ms. Gordon stated that if Council wished to adopt Ordinance No. 2018-2, it could do so by motion. (Gordon-Flood) None of the residents who requested this were present. Mr. Davis noted they did attend the Public Safety meeting. With no further comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

2. **Consideration of Resolution No. 2018-2, Appointing a Municipal Emergency Management Coordinator.** Ms. Gordon stated that Resolution No. 2018-2 nominates Scott Fleischer, Fire Marshal/Code Enforcement Officer, as the Borough of Doylestown Emergency Management Coordinator. She said that Mr. Fleischer has the proper certifications to fill this position which has been added to his job description. Ms. Gordon stated that if Council wished to adopt Resolution No. 2018-2, it could do so by motion. (Gordon-Frederick) With no comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

3. **Doylestown Fire Co. No. 1 Report.** Ms. Gordon reported that for the month of December, there were 23 incidents requiring their response.

PUBLIC WORKS AND ADMINISTRATION - Mr. Frederick

Mr. Frederick stated he had no report and then called on Mr. Ehlinger for the **Public Works Department Monthly Report**. Mr. Ehlinger noted the monthly Work Order Report showing 13 work orders, including several snowfighting events, and the Fleet Services Report were provided.

COMMUNITY AND GOVERNMENTAL AFFAIRS - Mr. Berk

Mr. Berk commented that the committee did not meet, but he wanted to recognize the students from the local high schools who were the force behind another successful Women's March on Sunday. It said it was spectacular with 1500 people showing up, and that was in no small part due to the activism of our youngsters. He congratulated them.

ZONING AND PLANNING - Mr. Brennan

Mr. Brennan reported that the committee did meet after being rescheduled, but they did not have a quorum.

1. **Application for Subdivision and Land Development Approval, SJS Management Group, LLC**, 641/651 North Main Street. Mr. Brennan stated that SJS Management Group, LLC, owner of the subject property, comprised of two parcels totaling 40,425 square feet, and located in the Freestanding Commercial Zoning District, is proposing to construct a two-story building addition. The approximately 17,100 square foot building will include a restaurant, retail space, and two dwelling units. He said the uses will be supported by a 48 stall parking lot.

Mr. Brennan stated that the Applicant was granted dimensional variances for front yard setback, driveway location, and parking lot buffer size. In addition, Borough Council approved an Intermunicipal Liquor License Transfer to this location. This approval was subject to any and all operating conditions, including but not limited to, conditions on hours of operation, as Borough Council may require for any Subdivision/Land Development Approval.

Mr. Brennan said that the Planning Commission reviewed the application and recommended approval of the application conditional on the following: (1) that the applicant resolve all outstanding issues in the Borough Engineer's and Borough Water Engineer's review letters to the satisfaction of staff; (2) that the applicant furnish and install five Doylestown Historic Streetlights at locations to be determined by Borough Staff; (3) that stop bars be installed at all stop signs; (4) that the applicant provide a voluntary contribution to the Shade Tree Fund in the amount of \$10,000; (5) that the hours of operation for the restaurant be limited to 11:00 a.m. to 9:30 p.m., Sunday through Thursday, and 11:00 a.m. to 10:30 p.m. on Fridays and Saturdays; (6) that the applicant enter into the usual developers, maintenance, escrow, and operation and maintenance agreements in form satisfactory to the Borough Solicitor; and, (7) that the project comply with all applicable building and environmental regulations including local, state, and federal.

In addition, Mr. Brennan stated that in consideration of the foregoing, the following waivers from the Subdivision and Land Development Ordinance are recommended: (1) §404, to allow for concurrent preliminary and final plan approval; (2) §506(e), to maintain the existing 15 foot curb radius at the intersection of North Main Street and Mercer Avenue; (3) §509(b), to allow the western most driveway along Mercer Avenue to be closer than the required 40 feet; (4) §509(c), to allow curb radii at the driveway intersection smaller than the required 15 feet; (5) §510(l), to allow the parking lot drive aisle to be closer than 5 feet from the North Main Street right-of-way; (6) §520.G(1)(a), to allow the existing fence and plant material to remain as he buffer; (7) §520.G(1)(b), to allow the existing fence on the adjacent property to act as the buffer for the trash receptacle; (8) §520.H.(2), to waive the requirement for parking lot landscaping; (9) §520.H.(3), to allow the existing parking lot to remain with 18 parking stalls without a landscape island; and (10) §803(c)(2) and §805(c)(2), to partially waive the requirement of showing all existing features within 400' of the property.

Mr. Brennan stated that the Zoning and Planning Committee did not have a quorum in attendance at their meeting, however, those in attendance did recommend that Council approve the application in accordance with the Planning Commission's recommendations. He said that if Council agreed with the recommendation it could grant Final Subdivision and Land Development approval by carrying a motion to do so. (Margolis-Berk)

Mr. O'Brien asked if there were representatives of the applicant present. Kris Reiss, P.E. and Kevin Kester were present. Mr. O'Brien asked if they agreed to all of the conditions. The response was "Yes."

Resident Joe Shandlay asked if the appropriate form was filed with the FAA for height variations. The response was that they were not aware that any may be needed, but he could find out. Mr. Shandlay requested that be a requirement. Solicitor Yeager replied that one of the conditions already is compliance with applicable building and environmental regulations, but the applicant agreed to confirm that to the satisfaction of Borough Staff. He recommended that the present motion consider that as an added condition. Mr. Flood moved, seconded by Mr. Frederick.

With no further comments from Council, Staff, or the public, the vote was called on the modified motion. All were in favor and the motion passed unanimously.

2. Consideration of Ordinance 2018-1, Changing Zoning Designation of 425 S. Main Street from R-3 to FC. Mr. Brennan stated that Provco Pineville Doylestown, L.P. submitted a petition to change the zoning district of 425 South Main Street from R-3, high-density housing, to FC, Freestanding Commercial. He said that the zoning change would facilitate the relocation of the existing Wawa convenience store with gas pumps. The petition included a site layout plan, conceptual roadway improvements, and a traffic impact study (TIS). Mr. Brennan stated that those supporting documents demonstrate feasibility of the proposed use and the benefits of relocating the Wawa from the existing, overcrowded site. The Borough Engineer, Borough Planning Commission, Bucks County Planning Commission, and Borough Staff have reviewed the plans and supporting documents and recommend adoption of the ordinance.

Mr. Brennan said that the Zoning & Planning Committee is recommending adoption of this ordinance, which has been properly advertised. He said if the Council is in agreement, the proposed ordinance may adopted by motion. (Brennan-Gordon)

Public Comment.

Attorney William Kerr with High Swartz, previously McNamara, Bolla, stated they were contacted a couple of weeks ago by the owner of the property on which the current Wawa is located, 399 South Main Street. He said in their view, this action would constitute improper spot zoning and would therefore be subject to a legal challenge. He also said their position is that this proposal should have been a zoning variance or something like it.

Mr. Kerr stated further that their client is concerned about added traffic and safety since adding gas pumps will significantly increase traffic. He concluded by saying they felt approval would be premature and asked that it be tabled, giving them time to meet with Wawa and Borough representatives to review this and see if there's a better path forward on this application.

Sandy Cornell stated she was appalled that "you would want to place this monstrosity right at the entrance to our beautiful little town."

Leonard Schechtman, Warden Road, Doylestown Township, said he was concerned about the traffic and did not feel this is a good site for Wawa, especially with no planned traffic light. He said he asked at Council's December 18 meeting, and it was never answered, why would Wawa buy this property unless they were guaranteed that the zoning would be changed for Wawa. He asked the same question again.

Michael Marks, 113 Steeplechase, Doylestown Township, referred to an ad that ran in the newspaper just before the election stating the candidates' intentions for the Borough. He

read several points in the ad regarding developing “a new comprehensive plan” and asked if Council members believed what they said in the ad and whether they would stand behind those beliefs. Mr. Marks then asked if Council wanted to retain what is special about Doylestown, a place people really want to live, or whether they wanted it to look like a strip mall like everywhere else in the country.

Maryann Davies, Cobblestone Lane, Doylestown Township, said this would create an incredible traffic safety hazard for people going in or out of their development.

Paul Morgenthaler, 19 Pebblewood Drive, Doylestown Township, said he wasn’t that concerned with this proposal because Wawa has an excellent reputation, they take care of their employees and the locale where they’re located, and felt if there’s a problem with the intersection/highway, negotiate with them that they foot the bill.

Eric Nolan, 17 Meadow Lane, which is directly behind the proposed Wawa, said no one debates that Wawa is a good company, but he agreed with Mr. Kerr in that we may be premature in changing the zoning and said we may not be doing our Borough justice by making a rash decision to change the zoning forever as opposed to making variances for a use case.

Cathy Dechellis, Elfman Drive, Doylestown Township, said agreed with everything being said and added that it is already a “crash shoot” when you pull out onto 611 and couldn’t imagine trying to deal with Wawa traffic. She said she’s also concerned about drinking, drugs, public urination, and a lot of other unsavory activities.

Bill Woodring, Old Orchard section of the Borough, commented that two years ago, a lot of the same fears were going around about Pool’s Corner - Swamp Road and the 202 bypass, and none of those fears ever came about. He felt the current Wawa where it is now is an accident waiting to happen and that where the TD Bank seems absolutely perfect. Mr. Woodring said after listening to people tonight, some ingress and egress enhancement may be needed, but it still seems like a perfect spot. He said that if you go back historically and look at the way Doylestown has been politically executed, it has been five stars; the Borough has done an absolutely wonderful job in keeping this a small, historical borough.

Michele Kaufman, Clemens Farm neighborhood behind Wawa, said where Wawa is now, makes the traffic very unsafe and felt moving it near the bypass area would be more appropriate. Ms. Kaufman added that living as close as she does and going into Wawa all the time, she has never seen alcohol, drugs, or any suspicion of it and, in fact, in the summertime because people are away on vacation, it’s actually kind of quiet.

Gloria Hall, Pine Run Community, said she wished tourism would also be considered because people from New York City who visit here want to see our landscape, not a Wawa with 12 gas pumps.

Helen Duffner, Ashland Street, said she agreed that when people come here, they want to see Bucks County. She said she thought the location for the Wawa was good, but keep out the gas so as to not jeopardize an existing business such as Liberty, who provides gas, employs people to pump that gas, and those people live in our town.

John Harding, 303 West State Street, said he felt that particular area should be kept as office buildings.

Liz Watts, 23 East Court Street, said she felt the current Wawa location is an accident waiting to happen. She thought the TD Bank location is great because you can get off and right back onto the bypass, or come into town. She said the property where the bank is needs to be

renovated anyway and this would bring more products, more business, and more people to the community. Ms. Watts added that she didn't think any existing gas stations in Doylestown were 24/7 and that's important to some people.

Becky Rudolph said she would rather compromise with Wawa and maybe do half the gas pumps, maybe do a traffic study, and maybe limit the hours. She said everyone is saying not to ruin the beauty of the landscape, but right now there's a big, ugly, empty building as the entry to our town. Ms. Rudolph thought the whole situation should be explored before just saying no to everything.

Sophie Zinkewicz, 9 Walnut Lane, said that any type of supersized store like that is detrimental to the small businesses in the area. She asked what the process is to allow this to happen.

Mr. Davis explained that there are three basic steps to the process, the first being a request for a zoning change, which is what Council is considering now. He said Council voted on that zoning change last month and that is a two-step process: first, they voted to advertise the zoning change, which is why people are here tonight, to discuss the proposal, and second, Council will, if it decides to not table the application, vote on the zoning change. Mr. Davis said the zoning change would either leave the current zoning in place, which does not permit the Wawa. He said if the zoning change is not approved, then the process would end here or take another course.

Mr. Davis said the next step, if the zoning change were approved, is that the applicants would need to go to the Zoning Hearing Board for a special exception to permit for the gas pumps. Mr. Davis explained that the Zoning Hearing Board is a quasi-judicial board, appointed by, but independent of Council, that acts like a court and hears testimony and the public within a certain distance, and there's a legal hearing where they make a case as to why they're entitled to the special exception and anyone opposed to it, they can make a case against. Mr. Davis said this is another point in the process where if it fails, the process ends or changes. He said if the special exception is granted, then the project goes through what is called the land development phase, which is the phase where you really delve deeply into issues of traffic, lighting, and things of that nature and the real specific details of the development. He said that process is held before the Borough Planning Commission and Borough Council.

Mr. Davis said these are three different processes before three different bodies before a project can be completely approved: zoning change, special exception, and then land development. At each step, difference aspects are considered in greater detail.

Someone asked if it went along as just described, when would there be discussion for hours of operation. Mr. Davis replied that hours could be considered in the Zoning Hearing Board process and also during the land development process. There is no specific requirement or limitation on hours of operation as it's not really a zoning or planning issue per se, but at a Zoning Hearing Board, you talking about impact on the neighborhood and hours of operation can be an aspect.

A man stated he lives on Juniper Lane near Lukoil and believed things could be done to adjust our zoning to accept these types of things like they do with McDonald's, where it doesn't even look like we think of as a McDonald's.

Lynlee Nolan, 17 Meadow Lane, said their entire property will be bordered by the Wawa. She said Wawa is proposing to extend the parking lot behind where the TD Bank is now to within 15 to 25 feet of their property. She said right now there's a buffer, a lightly wooded area

where wildlife lives. Ms. Nolan said they are very concerned about privacy, safety, having been robbed, the number of people this will bring 24 hours a day, the diesel smell, rumbling trucks at all hours making deliveries, rats, and the smell of trash. She said they asked Provco if there are any other examples of Wawas being built right up against a residential property and they provided six or seven addresses. She said with the exception of one address in Florida, they drove to the addresses and none of them sit right up against a residential property - there is an access road or it's across the street. Ms. Nolan said she knows the current Wawa is a mess, but moving it down the street, nestled up against the Clemons Road neighborhood, is not necessarily the best answer because of all the problems it will create, along with their property values going down.

Gail Strohmeier, 80 Steeplechase Drive, Doylestown Township, said this is a beautiful town and she cannot believe that a Wawa is going to be allowed to be the entrance. She said there was talk about drawing people in, you do that with your historic sites and your museums, not a Wawa. She also when they first moved here, there was a Shell station there that had contaminated tanks underground that hadn't been pulled because there was contamination. She asked if the site has been cleaned up and whether there is a no further action letter in the DEP files. Mr. Ehlinger replied that the site is clean and it received Act 2 clearance under DEP. She asked if there is any ongoing remediation and Mr. Ehlinger replied there is not.

David Laustsen, Meadow Lane, asked that regarding this whole idea of spot zoning, please give your best consideration to the efforts of the law firm that you're going to be working with as it's very important.

Edward Martin, Borough resident, said he agreed with Mr. Kerr and Ms. Strohmeier because you can't argue with facts. He said Wawa has been an issue and a nightmare for a very long time and they've never done anything about it. Mr. Martin was concerned about additional traffic because of the gas. He said he would rather have the empty bank as somebody in the future will buy it, like another bank or perhaps even like the Enclave, which would bring in more property taxes. He said hoped Council will listen to what the public wants and not what Wawa wants.

Ms. Hall suggested that since tourism is our main industry in Bucks County, why not ask the head of tourism of the county if he would like to see the Wawa there.

Solicitor Yeager pointed out that Bucks County Planning Commission has reviewed this and part of what the Borough looks to them for is their review of the prior uses of the property and whether the proposed rezoning is consistent with the Borough's Comprehensive Plan or whether it would be vulnerable to a spot zoning challenge. He said the Bucks County Planning Commission noted that prior to the use of the parcel as a bank as was previously noted, it was used as a fueling station which had received zoning relief to be able to operate as a fueling station, which means that the Zoning Hearing Board had determined that it had a right to that relief to operate as a fueling station. Mr. Yeager stated that the summary conclusions from the Bucks County Planning Commission were, "the proposal is consistent with the Doylestown Borough Comprehensive Plan and generally consistent with the other land uses and zoning districts within the corridor and the past use of the site."

Christine Johnston, 2147 South Easton Road, Doylestown Township, said the old gas station was not a super Wawa, nothing like what is being proposed and it didn't generate the traffic and it wasn't 24/7. She said that's like comparing apples and oranges.

Mr. Marks said he heard there was a gas station there in the past, but he also heard there was a time when Doylestown was always on its knees. He said that's not Doylestown today,

it is a different place fundamentally than it was when that gas station was there. He hoped Council would take that into account.

Mr. Martin said the old gas station originally closed by 6, maybe 7 pm, and even when they added a convenience store, and were done by 9 pm. He wasn't a 24-hour a day thing like Wawa's concept.

Nick Torcini, owner of two Liberty gas stations here in the Borough, said from a business prospective, he gets free enterprise, but opening a Wawa that close to him will probably force him to make changes in his business. He asked if he had to, what would his exit strategy would be, who would buy them. He had concerns about other small businesses in town too.

Kevin Fitzgerald, 67 Broad Street, thought one important thing to recognize is that the majority of people who show up at a meeting like this are in opposition. He said if you go to a Wawa and you stood there for one day, there are hundreds to thousands of people who go there every single day. He said Wawa services our community, it doesn't draw people in from New York. He said this is relocating the Wawa to arguably a better location which he suspected would negatively impact some people, but it does serve hundreds to thousands of people in our community every day.

Ms. Hall spoke about Wawas in other locations in the area that didn't make it in. She said Wawa is determined to get in here. She said they have to have 10 to 12 pumps to make it economical is what she was told by a reporter. She asked who is doing whom the favor and why would somebody buy property without knowing that they're getting a zoning change.

Solicitor Yeager said he wanted to be sure that there was an understanding of what Mr. Davis was referring to earlier about the process. He explained that the decision tonight for Borough Council is about the zoning of that parcel. If Borough Council decides to approve the zoning change, it is not approving the Wawa, it is approving what the zoning for that area is. He said part of what it considers, in addition to the community comments, are the recommendations from the professional planners at the Bucks County Planning Commission and the other people involved in advising the Borough. After a zoning decision is made about the zoning for the parcel and if that is approved, then the expectation is there will be an application. Mr. Yeager said the first application would have to be to the Zoning Hearing Board for a special exception and it is at that point that there would be formal plans that would be submitted for the Zoning Hearing Board, which is a separate quasi-judicial body with a separate solicitor, separate board members, and members of the public can appear and participate as parties. He said it's for the Zoning Hearing Board to then consider whether the standards for a special exception of what's being proposed are met. Mr. Yeager said the types of things being identified can be considered at the special exception stage, if it gets to that, and if it gets past that process and if there aren't any appeals, and if the court doesn't change, and if the conditions that come out of that process aren't satisfactory to people, it then comes through the Borough's subdivision and land development planning process. Mr. Yeager said there will be a process where it will be reviewed by the Borough's planning consultants, the Borough's Planning Commission, and the Borough Engineer, and the community has an opportunity to participate in that process at the Planning Commission. He said after that, if it got through all those things, then it would come back to Borough Council. He said through all that, there are opportunities for those kinds of considerations.

An audience member requested an explanation as to what is considered the historical district of Doylestown. Mr. Davis said it's hard to verbally describe, but the Historic District is

basically the center of town, which ends on South Main Street at the Agricultural Works. He said it is both commercial and residential, and it adds a layer of protection to properties within that district that necessitates a trip to the Historic and Architectural Review Board (HARB), which looks at the aesthetics of the property. Mr. Davis said if this was in the Historic District, they would be required to go to the HARB to have the appearance of the building looked at.

Mr. O'Brien said there was a motion and a second on the floor. He said public comment had been heard and as Council votes, members can say as to why the vote one way or the other, if they so choose. He called for the vote

Ms. West asked for an explanation of the difference between a zoning change and a zoning variance. Mr. Ehlinger stated that a variance is a deviation from the municipality's zoning and Land Use Plan that was not anticipated or contemplated, whereby the applicant has to prove some unique physical circumstance, some hardship, that they did not create that makes the use of the property impossible, and in strict conformance with the ordinance. He said it is an extreme measure on the part of an applicant to receive some relief.

Ms. West wanted clarification that if things turn out that the Wawa plans were not suitable, that Council could change it again. Mr. Ehlinger said Council absolutely has the power to rezone the land.

Mr. Yeager explained that there is a difference between rezoning and a variance. In rezoning, Mr. Yeager said it is a legislative decision and there is no burden on the applicant to show a hardship or standard that Mr. Ehlinger referred to. Mr. Yeager said the principal consideration is consistency with the Comprehensive Plan. He said that's the principal consideration in making zoning classifications.

Ms. Margolis asked if Council is opening themselves up to any legal liability if it turns down this zoning request. Solicitor Yeager said this is a legislative judgment and Council has to exercise its discretion for or against. He said if the applicant is dissatisfied with that decision, their most likely recourse is by seeking a variance, and by doing that they wouldn't necessarily be limited to the uses and the standards that are in the FC District, so you could end up having less control over what the standards are that would govern the development of the property.

Mr. Yeager added that Zoning Hearing Boards can be unpredictable and they can be reversed by the courts. He said you just cannot predict what will happen in any litigation process. He said there was a prior variance granted to have a gas station on this property, so it suggests at least that a prior version of the Zoning Hearing Board, was willing to entertain that for that property.

Mr. Brennan wanted to know if the question was really do we think this is more likely a commercial use. Mr. Yeager said there are commercial uses permitted there under the current zoning, so it's not a matter of changing it from a use designation that has no commercial activity to a use designation that commercial activity. He said this expands the types of commercial uses by zoning. Mr. Yeager said the current zoning of the property allows for commercial use of that property, R3.

Mr. Bell said Mr. Yeager talked about the County's opinion that this was consistent with the Borough's Comprehensive Plan. Mr. Yeager said, "and the corridor and the existing uses and the historic uses." Mr. Bell asked what year was that Comprehensive Plan. Mr. Yeager responded that the last major revision of the Comprehensive Plan was in 1997 and the Borough has a certified

planner on staff, who has reviewed it consistently since then with each zoning change and throughout time.

Mr. Flood said that Mr. Kerr said his legal opinion is that this would be challenged in court. Mr. Yeager said he heard what Mr. Kerr said a little more vaguely than what Mr. Flood just said. He said he has been involved on both sides of the table in challenging ordinances and when you've got the Planning County Commission saying it is consistent with the Comprehensive Plan and with the current uses in the corridor, and with the past use of the property, he thought anybody who would challenge that decision as spot zoning would have a very difficult time.

Mr. Berk said he thought most of the objections are not really about the zoning of the property, but about the uses after the zoning. He said he feels that the Planning Commission, the Borough, the Borough Staff, and the County, etc. have recommended that we make this change. He thought the objections stated by some in audience is that this is inappropriate, while in truth, these things are better answered in the second and the third stages of this, when they actually look at those things. Mr. Berk said what Council is looking at right now is whether or not it is consistent to rezone this property, and as he weighs the facts tonight, it seemed to him that it is. Mr. Berk said that in the second and third stages of this, he may very well vote against, indeed if it is, Wawa, but Wawa has nothing to do with what is being decided tonight.

Mr. Brennan seconded Mr. Berk's comments and said they are very, very early on in this process, and nearly every single concern he heard tonight has been the types of things this Staff has dealt with on a daily basis and have done wonderful work that many of the people present are saying is what is great about Doylestown. He said he knows there are concerns and he has his own about buffering, and it will be monitored and addressed.

Mr. O'Brien called the vote on a motion. All Council voted in favor of the motion except Mr. Bell. Mr. Davis said the motion carried.

3. **2017 Planning Commission Annual Activity Report.** Mr. Brennan said that in accordance with Article II, Section 207 of the Municipalities Planning Code, the Planning Commission is required to provide Borough Council with an annual activity report by March 1 of each year. He said the referenced report lists all business conducted by the Commission in 2017 was provided.

4. **Zoning Hearing Board Report.** Mr. Brennan deferred to Ms. Hyland, who reported that the Board met on January 17, 2018, and heard the application of Robert E. House, Jr. and Tina House for 193 Decatur Street, who requested dimensional variances to allow for a two-story residential addition to the rear of the existing duplex structure as well as a detached garage.

5. **Historic & Architectural Review Board (HARB) Report.** Mr. Brennan said the HARB, at their December 28, 2017 meeting, recommended approval and issuance of Certificates of Appropriateness for the following applications: Sign Applications: (1) 23 South Clinton Street, The Curated Closet, (2) 1 Taylor Avenue, Flip Dog Pilates; and, (3) 140 E. State Street, Free Standing Directory; Building Applications: (1) 305 Belmont Avenue, residential new construction, conditional that the siding is a smooth finish and functional shutters be used on the front and sides of the house, (2) 109 South West Street, replacement windows, and (3) 73 South Hamilton Street #4, rooftop deck, conditional that the windows over the garage doors are eliminated and replaced with a light fixture and that small LED down lights are placed between the structure of the pergola/arbor.

Mr. Brennan said that the Zoning & Planning Committee did not have a quorum in attendance at their meeting, but those in attendance recommended that Council approve the applications in accordance with HARB's recommendations. He said if Council wished to follow HARB's recommendation, it could do so by motion. (Brennan-Gordon) With no comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

6. **Code Enforcement Month Activity Report.** Mr. Brennan reported there were 26 residential and four non-residential use and occupancy inspections, six complaints were investigated, one building inspection, one recycling inspection, eight sidewalk/paving inspections, six sidewalk/snow inspections, three litter enforcement, one graffiti, eight fire company issues, and no tree removal permits/issues.

7. **Building Inspection Monthly Report.** Mr. Brennan reported there were 97 total permits and a total cost of permit fees of \$16,407.20.

ENVIRONMENT AND RECREATION - Ms. Margolis: No meeting. No report.

WATER UTILITY - Mr. Flood

1. **Resolution No. 2018-1, Authorizing the Submission of a PA Small Water and Sewer Grant Application.** Mr. Flood stated that this resolution authorizes the submission of a PA Small Water and Sewer Grant Application for the replacement and upgrade of the existing water main on Shewell Avenue between North Main and Union Streets. He said the resolution as well as a summary of the proposed project were provided.

Mr. Flood stated that the grant application in the amount of \$354,480 is proposed as a joint application with the County of Bucks, with the County and Borough sharing equally the \$2,000 application preparation cost and the required 15% applicant share of the total project cost.

Mr. Flood said the Water Utility Committee is recommending the adoption of Resolution No. 2018-1, and if Council wished to follow that recommendation, it could do so by motion. (Flood-Frederick) Mr. Flood commented it is a plus to have the County involved in the application process. Mr. O'Brien asked it was all going to be split 50/50, half from us and half from the County. Mr. Flood said that was correct. Mr. Davis added that it is going to be a seven and one-half percent share for us and half of the application fee, running roughly \$27,500. Mr. Flood said this is in keeping with our interest to upgrade the water infrastructure which we will be involved in the next several years and decades.

Mr. Shandlay asked why that location as opposed to another right now. Mr. Davis said it is an older water main and we have potentially some lead water services and some pressure issues. The person said so area is more a priority than other areas. Mr. Davis said that was correct.

With no further comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

2. Mr. Flood then called on Mr. Norris for the Water Department monthly report. Mr. Norris stated that for November-December 2017, there was one water main repair, one water service repair, 33 water meters were repaired, 17 SCADA system alarms, 15 house calls, six emergency shutoffs, and four bulk chemical deliveries. He noted that the quarterly wheeling invoice was sent to the Township in the amount of \$8,200

FINANCE/PENSION - Ms. West

1. **COLA for Non-Uniformed Pension Plan Retirees.** Ms. West stated that Univest Municipal Pension Services, the consultant for the Non-Uniformed Pension Plan, has reviewed the plan in accordance with Ordinance No. 2011-15, and has prepared a cost estimate for awarding a 2018 cost-of-living adjustment (COLA) of 2.0% for benefit recipients. She said the COLA is based on the increase in the applicable Consumer Price Index. Ms. West said that an annual COLA may be provided to a retired participant effective the first January following at least one year from the initial date of retirement. She said that therefore, COLA increases are not guaranteed and are reviewed by the Finance Committee on an annual basis. The cost is about

Ms. West stated that a schedule detailing the 2018 COLA for eligible retirees was provided. She said to be eligible, the recipient must have been an employee, not a surviving spouse, and must have been in the plan for the full year prior to the proposed increase.

Ms. West said that the Committee is recommending that Council approve the 2018 COLA for the eligible retirees in the Non-Uniformed Pension Plan, and if Council agrees with that recommendation, it could approve same by motion. (West-Berk) With no comments from Council or the public, the vote was called. All were in favor and the motion passed unanimously.

2. Ms. West called upon Ms. Brinker for the monthly **Finance Report**. Ms. Brinker reported that the total of all funds expended was \$743,894.79. Motion to approve the Finance Report. (West-Margolis) With no comments from Council, Staff, or the public, the vote was called. All were in favor and the motion passed unanimously.

PERSONNEL - Mr. O'Brien

Mr. O'Brien reported we still have vacancies on some of our boards and commissions. Mr. Davis said those openings on are the Environmental Advisory Council, Fanny Chapman Pool Board, and the Dog Park, as well as student board members. He said applications are being accepted until February 2, 2018. Mr. Flood asked what the age requirements are for the student members. Mr. Davis stated it is rising juniors and rising seniors, it's based on high school class.

PROFESSIONALS' REPORTS

Engineer's Report - Mr. Dougherty: No report.

Solicitor's Report - Mr. Yeager: No report.

Central Bucks Regional Police Department (CBRPD) Activities Report. Chief Donnelly stated the Police Activity Report was provided, showing 1163 incidents in the Borough, for a year end total of 16,071 incidents. As to the financial report, the Chief stated that year-to-date, December 2017, they spent \$5,208,420.48, which was 96.99% of the budget. He said they were three percent under budget.

PRESIDENT'S REPORT: None.

OLD BUSINESS: None.

NEW BUSINESS

Mr. Brennan said given the Women's March this weekend, the Me Too Movement, and pretty much everything we've seen over the last year with discrimination and harassment coming

from very unexpected places, he wondered if the Borough's discrimination policy has been looked at recently and whether that was posted. He said he knew having and posting the policies and making people aware of them are important.

Mr. Berk stated that was something he has been concerned about lately and one of the directives that he was going to issue to our Human Relations Commission (HRC) was to look into the education part of their direction, and have them come up with some options for us.

Mr. Davis said the HRC is meeting this Wednesday to talk about just that. He said we will also be looking at our personnel manual with regard to our policy. Mr. Davis he knew everything that is supposed to be posted is properly posted and our insurer, as a matter of course, regularly updates us on recommended changes to those personnel rules and policies. He said they look at these things closely and are also making a push on training courses. Mr. Davis said they will take a look at this.

Mr. Flood then asked if there is news on replacing the dreidel. Mr. Davis said his understanding is that there is a group involved and a carpenter has been secured. He said there is a meeting tomorrow with everyone involved – the police department, Discovery Doylestown, the fire department, all the volunteers who help put the holiday together, and Public Works Department. He said they are going to take a look, as they always do, at what was done right, what was done wrong, what needs to be done for next and he was sure the dreidel will be a subject of that. He said he would have a better update after that meeting.

OPEN PUBLIC COMMENT

Peter Mills, resident, said broadcasting the meeting live is a great idea, the only thing being is that the video and especially the audio is terrible. Mr. Davis said the Borough office is trying to move into a new building and as part of that project, everyone is hoping to get some professional studio space and have this done right. He said unfortunately this is a stop gap and we've been experimenting it.

Mr. Mills said he came across this meeting on Facebook, heard Wawa, and he came out, so he thought it was doing its job. He then wanted to acknowledge Council for doing what seemed to be a very unpopular thing with the zoning tonight. He said he thought if you really polled the entire community, Council would get a different opinion. He didn't think the group present tonight represents the town as a whole. He didn't think it was the end of the world to put Wawa on the corner there, and he didn't think it looks like a space port or however it was described earlier. He said he appreciated this process especially under the trying crowd that was here.

Mr. Mills then asked if there was a way for this to be for the people in the Borough and not for those who live in the Township to take over. Mr. Davis said there is cooperation and communication between the municipalities with a project. Mr. Yeager added that he appears in front of boards around the state and there are some municipalities where they won't even let someone who doesn't live in the municipality speak, but this Council has always taken a position of hearing from nearby residents, even if they're not within the municipality's border. Mr. Mills said he appreciated that, but sometimes it seems like the Township people come in and try to take over.

Mr. Frederick said if you go to the current Wawa and speak to the people who work there, the people who go in and out of there, you won't find many of them who would say, "Oh, leave it here. This is nice." He said they want it down the street.

Mr. Brennan commented that he is glad Council lets people talk and we're broader in who we hear from. He said we complain when people aren't involved and thought it would be bad to complain when they are involved. Mr. Berk said he agreed and added that nothing will get a person out more than negative feelings toward something.

Mr. Flood thanked the audience member for saying he appreciates the social media as one of the driving forces behind us doing this, as it was one of his campaign promises. He said when he first ran for Council, he wanted to televise Council meetings and he would still provide that as a solution, but this is better than nothing. Mr. Flood said his opponent in this last election tried to take credit for this and he had absolutely nothing to do with it. He again thanked Mr. Mills.

Another audience thanked Council for all the wonderful work they've done. He said development in this town is done so carefully and so well, if anything, the town is more of a jewel than it was when he moved here. He said he, and he was sure there are many, many others who are, is very appreciative of Council's work.

Larry Browne, 197 Washington Street, announced that the pancake breakfast is on March 17.

EXECUTIVE SESSION: None.

ADJOURNMENT

At 9:15 p.m., Ms. Margolis moved to adjourn, seconded by Mr. Flood. The vote was called and the motion passed unanimously.

Respectfully submitted,

John H. Davis
Borough Manager

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