

MINUTES OF THE CORNWALL BOROUGH COUNCIL REORGANIZATION MEETING
HELD ON TUESDAY JANUARY 2, 2024, AT 6 P.M.
AT SACRED HEART PARISH

Mayor Mark Thomas called the meeting to order at 6 p.m.

PLEDGE OF ALLEGIANCE

PRESENT

Bruce Harris, Bruce Conrad, John Karinch (via Zoom), Beth Yocum, Thomas Burton, Tony Fitzgibbons, Nathan Walmer and Mayor Mark Thomas

ALSO PRESENT

Borough Manager Cody Rhoads, Public Works Director Tom Smith, Police Chief Brett Hopkins, Solicitor Josele Cleary, Borough Engineer Chad Smith and Borough Engineer Josh Weaber

PUBLIC

Meeting attendance sheet is attached hereto.

PUBLIC COMMENT

Julie Bowman stated that however Council is reorganized, she hopes that they find a way to work better and in a more transparent manner.

NEW BUSINESS

SWEARING IN OF ELECTED AND APPOINTED OFFICIALS

Mayor Thomas swore in Thomas Burton and Tony Fitzgibbons. John Karinch and Nathan Walmer were previously sworn in.

APPOINTMENT OF COUNCIL PRESIDENT

Mayor Thomas asked for nominations for council president.

Bruce Conrad nominated Bruce Harris. Thomas Burton nominated Beth Yocum. Tony Fitzgibbons seconded the nomination for Bruce Harris. Mayor Thomas took a roll call vote for Bruce Harris. Tony Fitzgibbons “aye”, Thomas Burton “aye”, Beth Yocum “aye”, Bruce Harris “abstain”, Bruce Conrad “aye”, Nathan Walmer “aye”, John Karinch “aye”. Motion passed 6-0 with Bruce Harris abstaining.

Bruce Harris will serve as Council President.

APPOINTMENT OF COUNCIL VICE PRESIDENT

Thomas Burton nominated Beth Yocum. Tony Fitzgibbons seconded the motion. John Karinch nominated Bruce Conrad. Bruce Harris seconded the motion.

Thomas Burton, Beth Yocum, Tony Fitzgibbons, and Nathan Walmer voted for Beth Yocum. Bruce Harris and John Karinch voted for Bruce Conrad. Bruce Conrad abstained.

Beth Yocum will serve as Council Vice President.

APPOINTMENT OF COUNCIL PRO-TEM

Beth Yocum nominated Bruce Conrad. Tony Fitzgibbons seconded that motion. Motion passed 7-0.

Bruce Conrad will serve as Council Pro-Tem.

APPOINTMENT OF VACANCY CHAIR

Ms. Cleary said that the Borough Code requires that a vacancy chair be appointed at the first meeting each year. The vacancy board is made up of the vacancy chair and the remaining members of council. If there is a vacancy in an elected position and the council is unable to fill it in 30 days, then the vacancy board would meet to fill the vacancy.

Bruce Conrad made the motion, seconded by Beth Yocum, to appoint Ron Ricard as vacancy chair. Motion passed.

CONSIDER AUTHORIZING RESOLUTION 2024-1 (APPOINTMENTS FOR EIT COMMITTEE)

Mr. Rhoads said that this year's representative is Bonnie Grumbine from North Lebanon Township and the alternate is Jamie Yiengst from South Lebanon Township.

Bruce Conrad made the motion, seconded by Beth Yocum, to authorize Resolution 2024-1 to appoint representatives for the EIT committee. Motion passed.

CONSIDER AUTHORIZING RESOLUTION 2024-2 (APPOINTMENTS FOR ZONING HEARING BOARD)

The resolution appoints Chet Horst, Dale Waltman and Greg Roussey to the Zoning Hearing Board with Ron Laudeman as an alternate.

Beth Yocum made the motion, seconded by Thomas Burton, to authorize Resolution 2024-2 to appoint representatives to the Zoning Hearing Board. Motion passed.

CONSIDER APPOINTMENT OF JOE LESCISKO TO THE PLANNING AND ZONING COMMISSION WITH A TERM ENDING DECEMBER 31, 2028

Tony Fitzgibbons made the motion, seconded by Bruce Conrad, to appoint Joe Lescisko to the Planning and Zoning Commission with a term ending December 31, 2028. Motion passed.

CONSIDER PROMOTING OFFICER JIM CONKLIN TO SERGEANT

Mayor Thomas and Chief Hopkins spoke glowingly of Officer Conklin, who has been with the department since 1997. Bruce Harris stated that this was a budgeted position, but it hasn't been filled since Chief Hopkins was promoted.

Bruce Conrad made the motion, seconded by Beth Yocum, to promote Officer Jim Conklin to Sergeant. Motion passed.

CONDUCT PUBLIC HEARING IN PROPOSED ORDINANCE TO AMEND ZONING ORDINANCE TO AMEND GENERAL AND LIGHT INDUSTRIAL REGULATIONS IN THE ZONING ORDINANCE AND, IF APPROPRIATE AT THE CONCLUSION OF THE PUBLIC HEARING CONSIDER ENACTMENT OF PROPOSED ORDINANCE

Ms. Cleary stated that this is a legislative public hearing on a petition filed by Cornwall Properties to amend the zoning ordinance to amend regulations governing the General Industrial (GI) district to include manufacturing as a permitted use, to remove manufacturing as a permitted use in the Limited Industrial (LI) district and to make certain revisions to the regulations governing the GI district.

Ms. Cleary noted that the hearing was advertised twice in the Lebanon Daily News, on December 19th and December 26th, to meet the requirements of the Municipalities Planning Code (MPC) for a public hearing. That advertisement also met the requirements of section 610 of the MPC for consideration of enactment of an ordinance. It was advertised to allow Council to act at the conclusion of the public hearing or at a subsequent public meeting within 60 days of the second date of the published advertisement. A copy of the proposed ordinance was provided to the Lebanon County Law Library as required. Copies were also provided to the Lebanon County Planning Department and the Cornwall Borough Planning Commission. The borough files contain transmittal letters and proof of publication demonstrating these steps. The Cornwall Borough Planning Commission reviewed the proposed ordinance at its meeting on December 4, 2023 and those minutes are part of the borough's official records. The Lebanon County Planning Department sent a letter to the borough dated December 28, 2023, acknowledging receipt of the proposed ordinance, and providing comments. That letter is also part of the records.

Ms. Cleary stated that the purpose of this hearing is to give residents the opportunity to provide comments and set forth their position to borough council. It also gives Borough Council the opportunity to gauge public opinion. It is not a judicial or quasi-judicial hearing. No person will be placed under oath, there is no court reporter, there are no witnesses and there are no rights to cross examine.

John Karinch made a motion to limit public comment to three minutes per person. Mr. Fitzgibbons asked if they could see a show of hands for how many people planned to make comments. A handful of residents raised their hands and Mr. Fitzgibbons suggested raising the time limit to five minutes.

John Karinch amended his motion, seconded by Thomas Burton, to limit public comment for the hearing to five minutes. Motion passed.

Ms. Cleary stated that Council will hear public comment and after doing so, she will make a recommendation to close the public hearing. Council has a right to vote on the ordinance tonight if it desires to do so. If Council enacts the ordinance, that does not approve any development. Plans will still have to be submitted that demonstrate compliance with the zoning ordinance, subdivision and land development ordinance, stormwater management ordinance and any other applicable ordinance.

Mike Swank, Cornwall Properties, provided the background information for new members of council and any resident in attendance who was unfamiliar. Earlier this summer, PRL approached Cornwall Properties about finding a location for possible expansion. The location that they found is in the GI district, where manufacturing is not currently permitted. This rezoning request would permit manufacturing in the GI district. Mr. Swank said that this was not a hasty process. They first submitted the proposal in October, they attended three Planning Commission meetings, two Borough Council meetings and had a separate meeting with borough staff, Ms. Cleary and Mr. Weaber to work on the ordinance.

Tim Grass, CEO of Nautilus Integrated Solutions, introduced himself and other members of PRL in attendance. Nautilus is the parent company of PRL.

Tim Lewis, Director of Sales and Marketing for PRL, said that they have been a partner in the community since the early 1960s and they are excited to expand their operation within the borough. The building would be approximately 85,000 sq. ft. and would allow them to bring in larger manufacturing machines. Their foundry operations would remain in downtown Lebanon. Mr. Lewis stated that currently the United States produces 0.9 to 1.2 submarines per year. By 2028, that number is expected to increase to 3 submarines per year and PRL is a major part of that production.

Jeff Bamberger stated Mr. Byler bought his property to develop it. He felt that there was little opposition when Alden Place was constructed or when Cornwall Manor does a project, but that Mr. Byler gets a lot of pushback from wanting to develop barren land.

Jo Roussey asked PRL if they thought they would need to expand further in the future. Ms. Cleary reiterated that this isn't a question-and-answer session.

Ron Ricard asked if there needs to be a definition for heavy industrial uses in the proposed ordinance.

Julie Bowman said that she had no issue with PRL but she was concerned that the proposed ordinance was a trojan horse that has the potential to turn everything on the parcel into manufacturing. She said that it was previously stated that there was room for six 80,000 sq. ft. buildings, which is roughly 500,000 sq. ft. total, which is much less than the original 800,000 sq. ft. that was proposed for the warehouse.

Mike Gallagher stated that his only concern was that this was an opening for someone else to do something on the property that shouldn't be done.

Jeremy Zimmerman stated that the advertisement for this meeting was atrocious for how it was presented. The borough office was closed the week between Christmas and New Year's Day which prevented him from obtaining the proposed ordinance. He visited the Lebanon Law Library, which was also closed, along with several other county departments. He was unable to review the proposed ordinance until today.

Mr. Zimmerman questioned if there was an agreement between Cornwall Properties and PRL that stated PRL would lease a building on this parcel. If not, he stated that one party could back out of the deal and this amendment would have been made for no reason.

Mr. Zimmerman said that there is a 400-foot setback from Route 322, but only 200-feet from Boyd Street. He felt it should be 400 feet all around. He questioned when trees would have to be replaced in the buffer if they were taken down. He felt a box truck should be defined in the amendment. He did not feel that Cornwall Properties or PRL was trying to exploit anything but was more concerned about the future and different ownership.

Mr. Zimmerman felt that more time should be taken to specify certain aspects of the ordinance as opposed to passing it tonight and it possibly being taken to court, which would prolong the process further.

Kevin Poole said that his concern was the future use of the property if this ordinance is not done right from the start.

Ms. Bowman said that part of the trade off was removing warehousing as a permitted use, but the proposed ordinance does not address that. She felt that if manufacturing was a permitted use in GI, that would open the possibility of access to Route 322 and make the construction of a warehouse more plausible.

Mr. Bamberger wanted to reiterate that he doesn't know Mr. Byler and what he said earlier was strictly his opinion.

Mr. Fitzgibbons asked PRL if there was an agreement with Cornwall Properties to lease the property. A PRL representative said that there is an agreement for a 20-year lease. Mr. Fitzgibbons asked that if the naval program mentioned earlier would go away, would they be able to get out of the lease. A PRL representative said that they are involved in many programs and that this would be a long-term commitment.

Thomas Burton made the motion, seconded by Nathan Walmer, to close the public hearing. Motion passed.

Mr. Fitzgibbons suggested to council that in the interest of facilitating a defense contractor and a good resident of Cornwall, that they consider approving the text amendment with a change. That change was to increase the setback along Boyd Street a minimum of 200 feet, but with the addition of a second use, the average setback would be 400 feet. Mr. Fitzgibbons made a motion to approve the text amendment, with that addition.

Mr. Karinch asked Mr. Fitzgibbons about the distance of the buffer. Mr. Fitzgibbons stated that this buffer would facilitate PRL but would make additional building difficult until the borough is able to complete further work on the zoning ordinance. Hearing that the change is intended to be temporary, Mr. Karinch seconded the motion.

Mr. Conrad asked Mr. Weaber if he could clarify what a conditional use is. Ms. Cleary stated that she would prefer to answer as it is a legal question. She said that conditional use and special exception are poorly worded. Conditional use is a permitted use that requires a hearing in front of Borough Council and a special exception is a permitted use that requires a hearing in front of the Zoning Hearing Board. The standards for those two are identical, the only difference is which body is hearing it. If the applicant demonstrates that they meet the specific objective requirement of the zoning ordinance, then the burden shifts to any objectors that the use at this location is detrimental to public health, safety, and welfare. If people wish to oppose a conditional use or special exception on traffic grounds, they must have a traffic study done by a traffic engineer. A conditional use is a use that is authorized by the zoning ordinance that should have criteria that the applicant must demonstrate at a hearing. The benefit of having conditional use is that the hearing body can impose conditions on its approval. The power to impose conditions is not limitless though.

Ms. Cleary said to make it clear that there was no violation of the Sunshine Act, Mr. Fitzgibbons sent emails and might have spoken to people before he was sworn in as a council member, but there was no meeting to discuss the ordinance. Ms. Cleary was copied on the email and did not want to try to write an ordinance on the fly, so she prepared language reflecting the change Mr. Fitzgibbons suggested so that Council had that option tonight.

Ms. Yocum asked PRL if they saw the facility being constructed by the first quarter of 2025 if everything moved forward tonight. PRL said that they believe that will happen if they stay on this timeline.

Mr. Harris said that there was a motion and a second on the floor to adopt the ordinance to amend the zoning ordinance in the form presented to the meeting with the revision in section 6 which amends zoning ordinance Chapter 14-1604.1 paragraph B subparagraph 8 to provide a setback from Boyd Street 200 feet along the right-of-way for the first lot subdivided from a parent tract or a use developed on a parent tract. The buffer area shall be increased to an average of 400 feet from the right-of-way line of Boyd Street for the second and subsequent lots subdivided or uses developed on a parent tract.

Mr. Harris clarified with Mr. Fitzgibbons and Mr. Karinch that this was their understanding of the motion. They confirmed that it was.

Mr. Thomas asked how hard this would make it for further development. Mr. Fitzgibbons said that was the point of the addition to amendment. The ordinance can be changed again as easily as it was tonight.

Mr. Thomas asked if he understood Ms. Cleary, that she doesn't recommend the council does something like this. Ms. Cleary clarified that it isn't her function as solicitor, that is policy. She stated that she wasn't saying it was a good idea or a bad idea, just that it wasn't a good idea to try to write an ordinance during a meeting, which is why she prepared language beforehand.

Mr. Harris asked if the change proposed to the advertised ordinance would cause any issues if they chose to adopt it. Ms. Cleary said that the change was not substantial, and it would not require readvertising.

Mr. Harris said that there was a motion and second to adopt Ordinance 2024-1. There was a roll call vote, Tony Fitzgibbon “yay”, Thomas Burton “yay”, Beth Yocum “yes”, Bruce Harris “yes”, John Karinch “yes”, Bruce Conrad “yes”, Nate Walmer “yes”. Motion passed 7-0.

Mr. Fitzgibbons asked that as the Planning Commission works on future planning for the balance of the Byler tract, that they consider the traffic impact and council consider the expenditure of funds to study that in the future if needed.

Mr. Harris stated that Council might need to consider a different day and time for committee meetings since the two new members work during the day.

ADJOURNMENT

With no further business to conduct, Bruce Conrad made the motion, seconded by Nathan Walmer, to adjourn the meeting at 7:28 p.m. Motion passed.

Cody Rhoads
Secretary