

Planning Commission  
Meeting Minutes  
February 21, 2019

On February 21, 2019 a regular meeting of the Eldred Township Planning Commission took place at the Eldred Township Municipal Building, 490 Kunkletown Rd. Kunkletown, Pennsylvania.

**In Attendance:** In attendance were Robert Boileau (Chairman), Donna Mikol (Vice Chairman), Mike Kolba (Secretary), Archie Craig, Cathy Martinelli and Michael Gaul (Solicitor).

**Meeting Called to Order:** The meeting was called to order at 7:00 P.M. by Chairman Robert Boileau.

Mr. Boileau recognized students from the Pleasant Valley School District, Sergio Catafamo, Anthony Chrobak, Jack Stephens, Julia Polak and Daniel Engle.

**Approval of Minutes:**

- There was a motion by Donna Mikol and seconded by Archie Craig to approve the Organizational Minutes of January 17, 2019 Motion carried (5-0).

Solicitor Gaul asked that the minutes of the regular meeting on January 17 be revised to state:

Biosolids: Solicitor Gaul reported that he had spoken to Adam Schellhammer, the District Manager of the Monroe County Conservation District (MCCD). Mr. Schellhamer indicated that he had spoken with DEP about possible delegation of oversight of the State Bio-solids program in Monroe County. DEP claims, however, they are well staffed for the oversight of Biosolid applications and permits and they do not wish to delegate the responsibility to the MCCD.

With that change:

- There was a motion by Robert Boileau and seconded by Donna Mikol to approve the minutes of January 17, 2019. Motion carried (5-0).

**New Business:** Mr. Boileau read a letter for the Board of Supervisors requesting that the Planning Commission review its previous considerations and make recommendations for a Well Permit Ordinance. Mr. Boileau said he will review the documents from the previous review and bring his notes to the next meeting for discussion.

Solicitor Gaul added that the Township currently has a wellhead protection zone in our Zoning Ordinance.

He added that the purpose of such Ordinances are:

- a) Wellhead Protection for Public water supplies
- b) Isolation distances and drilling standards
- c) Recordkeeping

Mary Anne Clausen reported that in 1991 Steve Borger (well driller) said, in the minutes of a meeting, that the well drillers license required drillers to remain 100 feet from any existing septic system.

Cathy Martinelli reported that she has looked at Chestnuthill's Ordinance of 2017 and she brought a copy for the planners to review. She can also provide an application used by that Township.

Mr. Gaul said that there is a requirement of the Sewage Facilities Act that no septic can be installed within 100 ft. of an existing well but that no reverse rule exists.

Mark Green stated that because of areas where very small lots already exist, exceptions would likely have to be made.

### **Old Business:**

Biosolids: Archie Craig asked why the Township could not require testing and charge the applicant for the costs. Solicitor Gaul advised that the Township does not have the authority to do that.

Mr. Boileau reported that he, Mary Anne Clausen JoAnn Bush, Gary Hoffman and Megan Leblond went to a meeting of Upper Mount Bethel township and that the attorney there thought that if the Township were to absorb the costs of testing, an Ordinance like that might survive a challenge. However, Solicitor Gaul, after a discussion with Tim Crave (DEP) and their attorney Mike Ference, said, not even DEP currently tests the product at the site of application, but that they rely on the generator of the product to follow the requirements for testing. He stated that the way to keep abreast of what is happening is to look at the annual operating reports which report that levels of nutrients in the soils. He added that farmers do not apply more biosolids than they need because the result could then be adverse to growing crops. Typically, they apply less than the amount permitted based on soil testing.

Mr. Gaul reported that when asked about the Model Ordinance that was removed from the Attorney General's website he was told that there was no basis for such an ordinance, so it was removed intentionally.

He reported that the Township will not be able to attack the product based on its content or pollutants, because the approvals and permits are done long before the product is applied to any location. In order to be successful, a challenge of the science, used as the standard, would have to succeed, for each producer, individually. At the site, the only thing the DEP tests is Ph.

Mr. Boileau brought up several issues that he sees as inconsistent with the regulations.

Solicitor Gaul restated that the only recourse the Township has is to request the annual operating report for a site. This report gives a soil analysis used to calculate the outcome of an application and the next year's requirements for the intended crops. He reported that the PA DEP regulations are greater than the Federal EPA regulations, that the DEP does work closely with the Conservation Districts, that usually biosolids are used for forage crops due to harvest restrictions.

Mr. Boileau stated that he has an issue with the self-reporting that could result in fraud when for profit companies do all the required testing of the product.

Mr. Boileau spoke about a conversation he had with a gentleman from California DEP about California's regulations. He read some of the regulation details.

Mr. Boileau said the direction the Commission takes regarding creation of an Ordinance is still not clear, he has received some information from Mr. Craig, which he will review, that any Ordinance will need to be reviewed by either the Attorney General's office or the Ombudsman's program for consistency with the State regulation.

Solicitor Gaul believes that there is no case currently that any municipality has created attempting regulation which has survived the courts. He said the only thing the Municipality can do is to Zone agricultural use carefully to attempt to separate residential and ag use. He added that this normally takes place over time. Mr. Green stated that existing agricultural easements will hinder this attempt.

There was some further discussion about biosolids, sewage treatment facilities etc.

**Adjournment:**

- There was a motion by Cathy Martinelli and seconded by Mike Kolba to adjourn. Motion carried (5-0).

Respectfully Submitted,

E. Ann Velopolcek  
Planning Commission Secretary



Planning Commission Minutes  
January 17, 2019

On January 17, 2019 the Eldred Township Planning Commission met in a regular meeting at 7:00 P.M. at the Eldred Township Municipal Building.

**In Attendance:** In attendance were Robert Boileau, Chairman; Donna Mikol Vice-Chairman; Archie Craig, James Leiding and Solicitor Michael Gaul.

**Call to Order:** The meeting was called to order by Chairman Robert Boileau at 7:06 P.M.

**Approval of Minutes:**

- There was a motion by James Leiding and seconded by Archie Craig to approve the revised minutes of December 20, 2019, the revisions being a correction in spelling and the words State Law replacing Municipal Code in p. 3 pp.2. Motion carried (4-0).

**Biosolids:** Solicitor Gaul reported that he had spoken to Adam Schellhammer of the Monroe County Conservation District (MCCD) and to Tim Craven of the DEP and the DEP claims they are well staffed for the oversight of Biosolid applications and permits and they do not wish to delegate the responsibility to the MCCD.

Solicitor Gaul also said that DEP has provided materials to CJERP and possibly to the Township. Mr. Craven did a presentation to a group (unknown) and Mr. Gaul will call and ask him to come to the Township to answer some questions for the Planners.

**Wellhead Protection:** Jim Leiding reported that he spoke to Andrew Augustine of the N.E District of the DEP, Wilkes Barre, who told him that the Federal Safe Drinking Water law provides protection for public water systems and private systems that serve 4 or more residences, but that there are no regulatory considerations for private wells.

Dr. Leiding was told that Pennsylvania has a hands-off policy over private wells. Solicitor Gaul added that a dispute over a private system being polluted would be a civil case and not something the Township would get involved in.

**Laws:** Donna Mikol reported that she looked into the ACRE Law which provides protection for agricultural uses in the Commonwealth. Ms. Mikol found that the Department of Agriculture Ombudsman program has a person, Shelly Diehoff, who reviews Township ordinance for compatibility with the law. Solicitor Gaul was interested in whether any document was approved by the Ombudsman program. Ms. Mikol noted the current laws and those recently introduced that may create greater municipal authority. She did not find any new material that would give the Township any additional help.

Mr. Boileau asked Solicitor Gaul if there would be any benefit in the township adopting the model Ordinance the Attorney General's office had on its website.

Solicitor Gaul said he has several questions he would like answered before he would recommend that course of action.

Mr. Boileau spoke about the Code, Title 25 Chapter J. He read from the permit section which states that permits are not always necessary depending on the type of sewage being collected.

There was some discussion about the Conservation District being the inspectors for Biosolids as permitted in the law. Mr. Boileau wanted to know who instigates that action, the DEP, the Conservation District or a Township. Solicitor Gaul, after speaking to the DEP and the Conservation District, said that the DEP was not interested in handing over the job to the CD.

Having read the Code, Mr. Boileau feels that there is a great deal of missing information and ambiguity in the document. He would like to sit down with someone who knows the answer to some of the remaining questions.

**Broglia Waiver:** The Non-Building Waiver for the Broglia Minor subdivision was signed.

**Adjournment:**

- There was a motion by Archie Craig and seconded by James Leiding to adjourn. Motion carried. (4-0).

Respectfully submitted,

E. Ann Velopolcek, Secretary

Planning Commission  
Organizational Meeting  
January 17, 2019

On January 17, 2019 the Eldred Township Planning Commission met for its annual Organizational Meeting at 7:00 P.M. at the Eldred Township Municipal Building, 490 Kunkletown Rd. Kunkletown, PA.

**In Attendance:** In attendance were Robert Boileau, James Leiding, Archie Craig, Donna Mikol and Solicitor Michael Gaul.

**Temporary Chairman:**

- There was a motion by James Leiding and seconded by Robert Boileau to appoint Archie Craig as the Temporary Chairman. Motion carried (4-0).

**Call to Order:** The meeting was called to order by Temporary Chair Archie Craig at 7:00 P.M.

**Appointment of Officers:**

- There was a motion by James Leiding and seconded by Archie Craig to appoint Robert Boileau as Chairman. Motion carried (4-0).
- There was a motion by Robert Boileau and seconded by Archie Craig to appoint Donna Mikol as Vice-Chairman. Motion carried (4-0).
- There was a motion by James Leiding and seconded by Donna Mikol to appoint Mike Kolba as Secretary. Motion carried (4-0).

The appointment of Officers being completed:

**Adjournment:**

- There was a motion by Robert Boileau to adjourn. Motion carried (4-0). Meeting adjourned at 7:06 P.M.

Respectfully submitted,

E. Ann Velopolcek, Recording Secretary