

Planning Commission
Minutes
May 16, 2019

On Thursday May 16, 2019 the Eldred Township Planning Commission met in a regular meeting at 7:00 P.M. at the Eldred Township Municipal Building, 490 Kunkletown Rd., Kunkletown, PA.

In Attendance: In attendance were Robert Boileau, Chairman; Donna Mikol, Vice-Chairman; James Leiding; Cathy Martinelli.

Call to Order: The meeting was called to order at 7:00 by Chairman Robert Boileau.

Mr. Boileau welcomed student Dean Arthur who was visiting as a class requirement.

Approval of Minutes:

- There was a motion by Donna Mikol and seconded by Archie Craig to approve the minutes of April 18, 2019. Motion carried (4-0).

New Business: In response to the letter from the Board of Supervisors dated May 15, 2019, Mr. Boileau began the meeting by talking about the Zoning and Saldo Ordinances. He sees the need for consistency and accuracy in the verbiage in the documents (for instance the reference to a Township Comprehensive Plan which does not exist, but is, by default, the County Comprehensive Plan). In writing regulatory documents such as ordinances, in order to be all encompassing and assuring conformance, we should refer to “in accordance with the Township Comprehensive Plan, this Ordinance and all other ordinances of the Township.” He also wishes to see all Eldred’s Applications/Documents be consistent as regards appearance. Mr. Boileau asked for a volunteer to review the documents and make recommendations for changes to bring these documents into conformity. Donna Mikol agreed to take on this task.

The discussion moved to a list of proposed SALDO revisions submitted by Supervisor Clausen, the goal being to remove inconsistencies and make sure the document does not have inherent conflicts. Dr. Leiding agreed to take on this task.

Mr. Boileau then asked for a volunteer to review our shared use tables and the make recommendations for any changes/revisions in this section. Archie Craig will review this portion of the (Zoning) Ordinance.

There was a brief statement by Mr. Boileau about regulations for horses that he will look into. Ms. Clausen brought up signs, Mr. Boileau said any other topics not assigned, he will review.

Ms. Martinelli brought up that regarding signage, most large companies (Dollar General, for instance) have their own signs which they are not willing to change for local regulation. She asked why the Board does not use a consultant to review these of items. Mr. Boileau replied that the Commission has had success using the product of other Townships (ie: ordinances and model ordinances) and modifying and in some cases combining several products to make a document useful for Eldred Township.

Ms. Martinelli added that she is a proponent of using a Planning Consultant for various reasons.

Short Term Rentals: Mr. Boileau opened a discussion about Short-Term Rentals in light of a new Pennsylvania Supreme Court ruling that states that Township can prohibit this use (after many opposing court decisions) in Residentially Zoned areas.

The Planning Commission, in December of 2017, advised the Supervisors to adopt a Short-Term Rental Ordinance. However, at that time, the Supervisors took no action due to pending litigation in the courts. Now, the Planning Commission is renewing its recommendation that the Board of Supervisors schedule a public workshop or request the Planning Commission submit a draft Ordinance.

Supervisors Clausen suggested that public discussion happen at an advertised meeting of the Planning Commission, requesting public input on this subject.

Ms. Martinelli stated that it is of great importance to place the uses in the area where the Township wishes the use to be. She is in favor of having a strong Ordinance for this use.

It was decided that at the regular Planning Commission meeting on August 15, 2019 there will be a discussion regarding Short-Term Rentals that will be advertised (updates and Website) requesting public comment.

Biosolids: Mr. Boileau referenced the Right-to-Know request sent by Curtin Heefner regarding the biosolids application on the Johnson Farm. He read some of the permitting requirements for the applications and producers. He then referenced the Biosolids Sampling Manual from the Attorney General's office which specifies how samples are handled and tested and what tests may be done.

Well Ordinance: Mr. Boileau has created a draft Well Ordinance. He will be refining the draft. He would like all wells to be required to be permitted. There are also technical requirements integrated into the Ordinance, various exemptions/variances and yield testing.

Adjournment:

- There was a motion by James Leiding and seconded by Cathy Martinelli to adjourn. Motion carried. Meeting adjourned at 8:00 P.M.

Respectfully submitted,

E. Ann Velopolcek, Secretary

Planning Commission
Minutes
April 18, 2019

On April 18, 2019 the Eldred Township Planning Commission met at 7:00 P.M. at the Eldred Township Municipal Building 490 Kunkletown Rd. Kunkletown, PA.

In Attendance: In attendance were Robert Boileau, Chair; Donna Mikol, Vice-Chair; Mike Kolba, Archie Craig, and Solicitor Michael Gaul

Call to Order: the meeting was called to Order at 7:00 P.M. by Chairman Robert Boileau.

Approval of the Minutes: There was a motion by Archie Craig and seconded by Donna Mikol to approve the minutes of March 21, 2019. Motion carried (4-0).

Old Business: There was some discussion about an Ordinance for biosolids, The issues discussed were the possible testing that the Township might do, how it might be funded and what authority the Township might have in creating standards for such testing. Mary Anne Clausen added that the Township, through special counsel Curtin Heefner, did send a right to know request to DEP for the documents submitted by Synagro to the DEP for the application on the Johnson Farm. She did not know if the Township has a copy of those right to know documents, but she will look into it. There was a brief discussion about the current testing, where it occurs. Mr. Boileau suggested having those test results would allow the Township to compare any sample testing results the Township would retrieve, to determine the material was in compliance.

SALDO Checklist: The secretary gave the Planners the current checklist for the SALDO, which is on the website. Mr. Boileau would like to update the list to make it consistent with the SALDO. Solicitor Gaul advised to check the definitions and references in the document to make sure they are accurate.

Conservation Lands: The Township has a map of conservation lands and the secretary will locate that.

Other SALDO Items: There was a brief discussion about several SALDO and Zoning issues, Lot Size, Uses, Definitions, Marijuana etc. The Planners identified several items that the believe could be revised.

Mr. Boileau, referencing a set of notes of proposed zoning amendments submitted to the Planning Commission by Supervisor Clausen, suggested that our Zoning and SALDO Ordinance should be reviewed regularly and revised as necessary. He added that the documents are not intended to be static, but to be “living” documents that change with the changing landscape of Zoning and Development. The Planners will review Ms. Clausen’s document for discussion at a later date.

Solicitor Gaul cautioned that in any type of ordinance, the more the Township gets involved in anything other than just permitting, the more likely it is that the Township would need professional consultants.

New Business: Well Ordinance- There was discussion about creation of a Well Ordinance. The items discussed were the Ordinance from Tinicum Township, and Chestnuthill Township. Mr. Boileau spoke to Matt Neeb (Chestnuthill Twp), and they are not having compliance issues.

Solicitor Gaul pointed out that there are parts of the other Townships Ordinances that would not apply to Eldred Township but that they were a good starting point. He suggested that the Township begin with permitting, keeping track of who (well drillers) is working in the Township, isolation distances, exemptions, emergency construction and certain construction standards. Solicitor Gaul stated that there is little language regarding consequences of adverse effect. He asked the planners what they would want in an Ordinance:

- quality and quantity standards
- neighbor notifications
- remedy for adverse effects
- residential vs. commercial
- wellhead protection
- permits (inclusive)

He indicated that the definitions he had seen in example ordinances would exempt public water supplies.

Solicitor Gaul asked if there would be any value in having a representative of a local watershed give best practice advice on this subject. Donna Mikol will reach out to Jim Vogt (Aquashicola/Pohopoco watershed) and a representative of the MCCD to ask if either has expertise in this area. Mary Anne Clausen stated that Hanover (Township Engineers) has a hydrogeologist on staff. Solicitor Gaul suggested consulting with them for advice on the technical requirements.

Adjournment: There was a motion by Donna Mikol and seconded by Mike Kolba to adjourn. Motion carried (4-0)

Respectfully Submitted,

E. Ann Velopolcek, Secretary

Planning Commission
Meeting Minutes
March 21, 2019

On March 20, 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), James Leiding, 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.

Approval of the Minutes:

- There was a motion by Donna Mikol and seconded by Cathy Martinelli to approve the minutes of February 21, 2019. Motion carried (5-0).

Biosolids: Mr. Boileau read a letter he prepared for delivery to the Board of Supervisors containing the Planning Commission's recommendation for a Zoning Ordinance regarding Biosolids. The letter will include a proposed Ordinance.

- There was a motion by James Leiding and seconded by Cathy Martinelli to approve the letter and proposed ordinance to be sent to the Board of Supervisors. Motion carried (5-0).

There was a lengthy discussion about the issues related to Ordinances that attempt to regulate biosolids, since the State laws have given authority over its use to the DEP and are regarding it as a normal agricultural use.

Wells (proposed ordinance): There was a lengthy discussion about wells, both public, commercial and residential, and how best to create an ordinance regulating the installation of wells in the Township.

Solicitor Gaul brought up that the DRBC has regulations for public water supplies that the township cannot supersede.

Mr. Boileau reported that there are several regulations in place ie: water well drillers licensing permit etc. That he feels should be referenced in any proposed Ordinance.

Several Ordinances from other Townships were reviewed for pertinent information such as parameters for testing well water.

Ms. Mikol pointed out that when purchasing a home, the lender is likely to require a potability test.

Some requirements may be:

- Grouting
- Depth
- Testing
- Isolation distances
- Permits

Mary Anne Clausen contributed that Bucks County Townships have well drilling Ordinances that may work as a standard for a model Ordinance.

Public Comment: Marianne Nichols asked if the Township was planning to fight the use of biosolids in the Township. Mr. Boileau replied that the cost of a lawsuit would be prohibitive, however the Township is interested in having an Ordinance that will afford our residents the most protection.

There was a discussion about the Pa. Environmental Rights Amendment to the State Constitution (Article 1 Section 27), how it is being interpreted and how it may be applied. Solicitor Gaul stated that while an amendment to the State Constitution is greater than a law, that the Legislature can eliminate or modify the powers of local government, should they choose, removing decision making authority from municipalities.

Adjournment:

- There was a motion by James Leiding and seconded by Donna Mikol to adjourn. Motion carried (5-0). Meeting adjourned at 8:05 P.M.

Respectfully Submitted,

E. Ann Velopolcek
Recording Secretary

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