

**BENSALEM TOWNSHIP COUNCIL
MEETING MINUTES**

**Monday
January 27th, 2025**

COUNCIL MEMBERS PRESENT:

Joseph Knowles, Council President
Edward Kisselback, Council Vice President
Michelle Benitez, Council Secretary
Stacey Champion, Council Member
Joseph Pilieri, Council Member

SUPPORTING STAFF PRESENT:

Mayor Joseph DiGirolamo
Debora McBreen, Council Clerk/Recording Secretary
Joseph Pizzo, Township Solicitor
Philip Wursta, Township Engineer

PLEASE NOTE:

The minutes are not verbatim but rather a synopsis of what transpired during the meeting, and while I do my best to attribute remarks and questions to the correct individual, there may be mistakes or omissions because of the “back and forth” dialogue and the lack of the use of their microphone.

Solicitor Pizzo indicated Council met in an Executive Session immediately prior to this evenings meeting for approximately one hour. Present for the Executive Session were members of Council, the Mayor, the Director of Administration, Mr. John Chaykowski and Solicitor Ken Ferris. Discussed were two matters one involving real estate the other involving pending litigation. No official action was taken on the real estate matter and no action is required this evening regarding the litigation. There will be action later this evening in regards to the matter of litigation as it involves the Township Local Gaming Device Ordinance.

1. OPENING OF THE MEETING:

Council President Knowles opened the meeting with a moment of silence and/or prayer, followed by the Pledge of Allegiance.

2. INTRODUCTION OF COUNCIL MEMBERS, MAYOR AND STAFF:

Council President Knowles introduced the Mayor, Supporting Staff and Council Members.

3. **PUBLIC COMMENT:**

Council President Knowles indicated the Public Comment will be heard at the time the agenda item is heard. Seeing no one come forward the first of two Public Comments was closed.

4. **APPROVAL OF COUNCIL MINUTES:**

Council Vice President Kisselback motioned to approve the Council Meeting Minutes from November 25th, 2024 as presented. **Councilwoman Champion** seconded and the motion carried 5-0.

Council Secretary Benitez indicated a typographical error on page 3 of the December 2nd, 2024 Budget Meeting Minutes the word “barely” should read “fairly.” **Councilwoman Champion** motioned to approve. **Council Secretary Benitez** seconded and the motion carried 4-0-1.

Council Vice President Kisselback motioned to approve the Council Meeting Minutes of January 6th, 2025, Reorganization. **Council Secretary Benitez** seconded and the motion carried 5-0.

5. **CONSIDERATION AND APPROVAL OF AN ORDINANCE AMENDING CHAPTER 134-LOCAL GAMING DEVICES OF THE TOWNSHIP CODE; AMENDING CHAPTER 160-PEACE AND GOOD ORDER OF THE TOWNSHIP CODE:**

Solicitor Pizzo indicated the Ordinance that established Chapter 134, Local gaming Devices; and amending Chapter 160-Peace and Good Order, this amendment was properly advertised in the Bucks County Courier Times on January 19th, 2025. As Council was briefed during the Executive Session, when Council adopted Ordinance 2024-05 which is known as the Local gaming Device Ordinance. Back in October of last year that adoption was followed by litigation that was brought by a business that is involved in the Local Gaming Device, or Skill Games as they are sometimes referred to by one of the local businesses in which several of these machines are located. That litigation has been moving through the Court of Common Pleas of Bucks County.

One of the arguments that has been raised by the plaintiffs is in regards to the Township references in the Township’s Local Gaming Device Ordinance to the Pennsylvania’s Crimes Code, specifically 18 Purdon, Section 5513 of the Crimes Code. That Section, as Council is aware, makes it illegal for individuals and/or businesses to operate Games of Skill, unless they are licensed by the State to do so. It would otherwise amount to the illegal operation of Games of Chance.

In the original drafts of the Ordinance it included references to the Pennsylvania Crimes Code specifically to Section 5513 both in defining the devices that would be subject to the Ordinance; and there are a number of them, not just those defined in Section 5513 of the Crimes Code.

Solicitor Pizzo included references to the criminal prosecutions that might follow by making possessing any of the devices that are defined in the Township Ordinance a violation of Section 5513 of the Crimes Code.

As the litigation has played out and in reviewing the way the Township has been enforcing the Ordinance to date the Township has not found it necessary to move forward in any fashion with any actions under the Crimes Code. All of the enforcement actions to date by the Township have been of the civil variety as outlined in Section 134-5 of the Ordinance. Those have involved notices to the property owners or the businesses that the machines have to be removed and in one case, the notice of violation having been issued to one of the businesses.

There has been no criminal activity and there has been no criminal prosecution; since the issue was raised by the plaintiffs in the litigation and since the enforcement of the Ordinance hasn't necessitated proceeding in that fashion. The Solicitor's recommendation, to the Council is at this time the Township should simply remove the references in the Township Ordinance to Section 18 Purdon, Section 5513 and in doing so the Solicitor believes the Township will essentially take away the strongest argument against the Township Ordinance that the Township us somehow criminalizing something that the State otherwise hasn't. The Township does not believe they have, but again these Sections of the Ordinance as things have played out over the last several months really haven't been germane to the way the Ordinance is being enforced.

It is the Solicitor's recommendation that they be taken out at this time, taking away that argument from the court, as the Solicitor moves forward in the defense of the litigation. It is the Solicitor's recommendation that as set forth in the Ordinance amending 2024-05 that Section 134-5(C), 134-5(D) and 160 Subsection 16 as set forth in the Ordinance that those all be stricken from the Code of the Township. Additionally, not included in that Ordinance but that the Township delete Section 134-2 Subsection 1, Subsection (e) from Ordinance 2024-05. That Section which is the definition section of what constitutes a local gaming device currently reads "an electronic video monitor as that term is defined in Pennsylvania Crimes Code, 18 Pa.C.S. Section 5513, and/or that operates and/or is operated as defined and described in the Pennsylvania Crimes Code, 18 Pa.C.S. Section 5513."

It is the Solicitors recommendation that in addition to the other amendments that the Subsection of Ordinance 2024-05 also be stricken as part of Council's action. If Council agrees with that then the Township will amend the Ordinance to reflect that action. Solicitor Pizzo indicated that Council can make an amendment this evening that isn't part of the published Ordinance. Solicitor Pizzo indicated that if Council is removing something or making the ordinance less restrictive and going the opposite way, then the Township would have to advertise the Ordinance. But in this case, if Council follows the recommendation of the Solicitor and omits Section 134-2 Subsection (e) there is no need to re-advertise.

Solicitor Pizzo indicated that the Township is doing this because they have been confronted with a lawsuit that challenges the legality of the Township's Ordinance. In defending that, the Township believes that by taking away an argument that even the Solicitor believes the Township would ultimately prevail, it's not necessary to fight this particular fight at this time. It makes more sense to simply remove those references to the Crimes Code from the Ordinance.

All of the enforcement action will be through the Township's Department of Building and Planning. Inspections determining where the machines are located are permitted to be done by Police, are permitted to de done by the Fire Inspector, are permitted to be by Code Inspectors. All of them have the ability to do the inspections and the Township is not changing that. But the Township will be at this point limiting the enforcement actions to and through the Department of Building and Planning and the District Magistrate Courts.

Councilman Pilieri indicated that when Council discussed this back in October the subject of security was brought up as to what kind of security will be on the property. Is there anything in this approval that will cover security?

Solicitor Pizzo indicated the ordinance itself allows the local gaming devices from those who have current and valid licenses issued by the Pennsylvania Liquor Control Board either for businesses that are a restaurant liquor license, brewery liquor license, a distillery liquor license, a winery liquor license or a brew pub liquor license. Those licenses have to be in good standing with the LCB. The other locations where these devices would be permitted are establishments that hold active club liquor licenses such as the Knights of Columbus or the VFW or American Legion.

In those places where they are permitted to have the machines, the numbers are limited. Three for the restaurant and brewery liquor license category, five for the local clubs. Secondly, what those businesses have to do in order to have machines in their establishments is they have to establish a segregated location within their facility where the machines are not accessible to children. They have to be in view at all times to one of the people in the business. Typically, a bartender if it is in a bar or someone who is an employee who will have constant eyes on the area where the machines are located. Thirdly the Ordinance requires them to install closed circuit television monitoring of the areas and the video or film for those cameras have to be maintained for a period of at least 30 days and have to be accessible on demand to the Bensalem Police Department. Those are the security measures that are in place for the machines that are permitted to be in the Township. Otherwise, the machines aren't permitted to be in Smoke Shops, Gas Stations, the Pizza Parlors, the places where the Township is seeing the proliferation of these machines within the Township and places where candidly never envisioned them to be located.

Councilman Pilieri indicated that the Township is allowing them in restaurants where families go. If someone playing on one of these devices is drunk and gets angry and starts wielding their weapon, there is no security on these premises to protect families. The Bensalem Police Department will have to answer the call and hope they get there in enough time to defuse the situation. Is that what is being said?

Solicitor Pizzo's response was that he didn't know if he would say it exactly the way Mr. Pilieri is saying it. But he would say that in those businesses where the Township said they are permitted to be located, businesses that otherwise comply with all of the regulations of the Pennsylvania Liquor Control Board to maintain in good standing their liquor license including not allowing for various kinds of activity to take place particularly minors having access to the areas where liquor are. The thought was that as to those businesses that already have to comply with the regulations of the State to maintain their licenses in good standing those were the places where again, in limited numbers, 3 and 5 respectively machines could continue to be located in those businesses.

Going forward, and Mr. Pizzo knows that Mr. Pilieri was a proponent at the time of the hearing on 2024 that they should be banned throughout the Township. That is a route the Township can go if collectively Council feels that it is not working out even after allowing them in limited numbers in the places that have liquor licenses. And Council wants them out of the Township completely, that is always an option that is available to Council.

Councilman Pilieri asked if the State was putting together laws on this type of thing.

Solicitor Pizzo indicated that a Bill was introduced in the last session of the State Senate. The last session of the State Legislature ended shortly following the November elections. A new Senate has been sworn in, a new State House has been sworn in just in the past several weeks and does not know if the legislation that was introduced in the last session has yet been reintroduced. Nothing has been officially enacted by the State Legislature and signed into law by the Governor.

Councilman Pilieri's concern is if somebody, God forbid, a child gets hurt or anybody in this Township on an Ordinance that Council passed and not demanding security to protect the people. It would be very difficult for Mr. Pilieri to live with that if somebody got killed because of a gaming device. Mr. Pilieri does not know if he could put his name on something agreeing to something that puts Council in Harm's Way because personally he would have a hard time dealing with himself.

Solicitor Pizzo indicated that Council collectively and unanimously adopted this Ordinance in furtherance of the Health, Safety and Welfare of Bensalem Township. the underlying purpose of this Ordinance in the first place. It is certainly the belief of the Township, and was stated at the time of the initial adoption of the Ordinance, that what the Solicitor was recommending to Council was something that was consistent with legislation that had been introduced in the State House. To address the question of local gaming devices going forward that was consistent with what the City of Philadelphia was doing at the same time in regard to proliferation of these devices in City and the various problems that the proliferation of these devices was bringing upon communities throughout the Commonwealth.

Again, it was the Solicitor's belief that the presence of the liquor license and everything that a business that a local bar or restaurant has to comply with in order to maintain their license in good standing and particularly the devices had to be segregated within those facilities so that they weren't accessible to the general public, specifically children, and that they were otherwise able to be monitored, if not controlled. That course of action was a reasonable compromise, if you will, so as not to perhaps unnecessarily restrict or prohibit these devices throughout the Township. To Mr. Pilieri's point, if it is the collective concern of the Township or as the Township is moving forward with the enforcement of this Ordinance, if Council believes that no it is just not working and they thought that allowing them in limited numbers was something they could do. But no, the problem still exists and it is not getting better, Council certainly has the ability to come back and to direct the Solicitor to further amend the Ordinance to simply prohibit them throughout the Township.

Councilman Pilieri asked if there was anything in the Liquor Control Board and their legislation that talks about these machines and with them saying that there has to be security?

Solicitor Pizzo indicated that he did not believe the Liquor Control Board, per say, speaks to whether or not these devices are or are not permitted within a licensed establishment.

Councilman Pilieri indicated that if Council is approving this and the Liquor Control Board doesn't approve this and something happens is the Township liable; or can the Township be sued if this is approved by Council something that wasn't approved by the Liquor Control Board.

Solicitor Pizzo replied with can the Township be sued, yes, as a matter of fact the Township has been sued. Even with carving out the restaurants and the VFW's and the Knight's of Columbus,

even with that the Township has been sued. Unfortunately, the Township has always been a target when it comes to litigation. Again, in crafting this Ordinance and there were many months, if not years that went into it. Part of what the Township did, as was discussed back in October, was to mirror that legislation that had been introduced in the State in the hope and expectation that the State would in fact act on it and the Township would have an Ordinance that was already compatible to the law that was already being introduced in the State.

The Bill that had been introduced allowed for the machines in limited numbers in the same kinds of facilities that are licensed and governed by the State Liquor Control Board. Looking to what Philadelphia was doing on a similar scale to address the problem put the Township in what they believed a defensible position. That what the Township was doing wasn't going beyond that which was being discussed or proposed in Harrisburg or that which was being discussed or proposed in the City of Philadelphia.

Solicitor Pizzo reiterated that Council can direct the Solicitor to propose another amendment to the Ordinance that prohibits them throughout the Township. If this is collectively what Council believes to be in the best interest of the Township. The Township Ordinance was reviewed and discussed and commented on by the County District Attorney. It was reviewed, discussed and commented on in many cases formulated in collaboration with the Director of Public Safety and his command staff based on what they were seeing and what they were dealing with in the Township as to what was happening in Gas Stations. Also, what was happening when these devices were being played, and when the money was being collected from these devices; and the possibilities for the crime related to the use operation of these machines in places that candidly the Township never intended for them to be. There are seven or eight of them in a Gas Station up on Route 1 where the player can leave and go out and make up his losses on an unsuspecting resident at a gas pump or make up his loses at a cash register by pointing something at the gentleman working the cash register.

The same concern or the same fear wasn't necessarily present in these licensed establishments under the regulations that the Township was proposing. Ultimately the 5 Council members are charged with the health, safety and welfare of the community. If it is Council's belief that the ordinance doesn't go far enough, the Solicitor will be happy to take it farther.

Councilman Pilieri commented that this puts the Townships Police Department in a position where they are going to have more problems and more things and more safety issues when they are already busy enough now because Bensalem is right on the outskirts of Philadelphia and a lot of that crime in Philadelphia makes its way to Bensalem and we put our Police Department in Harms Way. This also puts the residents in Harms Way if the Police are too busy taking care of that and not available to take care of other crimes that come in.

Council Secretary Benitez indicated that she believes those skill games have been at those facilities that Council is not approving for many years. The presentation from District Attorney Schorn and Director McVey was that through their investigation over the course of the two years this was their recommendation. Council Secretary Benitez is very confident in their investigative skills and is very happy with their recommendation. In addition to that Senator Farry is the one who brought the Bill 4412 forward. PSATS is coming up in May and this is a Resolution that may be coming up in State and will further investigate that.

Council President Knowles indicated that Council already passed this and all that Council is doing is amending the Ordinance to hope this survives the legal battle that it is already going to face. And the one facing Philadelphia hopefully they have a decision soon. Council is amending it to make it possible so that they can at least do what they already did. In the future, if Council chooses to make the Ordinance tougher or once it passes this level of being able to do anything then they can do that in the future. For now, all that Council is doing is amending the Ordinance that was already passed and making it a little bit easier to fight it in court.

Council Secretary Benitez indicated that it is also consistent with other municipalities across the State and so there is power in numbers.

Council Vice President Kisselback indicated that the choice Council had was to have only gambling and gaming done in Parx Casino in Bensalem. However, Council got caught off guard and before they knew it they had these games of skill or chance showing up in places they shouldn't be such as gas stations and smoke shops, pizza parlors and delicatessens. Every time you turn around you see another one popping up so the Township had to take some kind of action. Mr. Kisselback believes that if the choice was to eliminate them completely from being part of the environment of Bensalem; it would be almost indefensible in terms of going to court and the gaming industry suing the Township for not allowing those type of businesses in Bensalem. This way the Township has the control with them and it is controlled by the Liquor Control Board and limited to being either in a bar or restaurant and a social club based on them having a liquor license.

The ordinance being presented this evening is almost a carbon copy of what is being presented up in Harrisburg. Presently the Township is being sued on a technicality by a ward. This is how minute they have become in terms of suing the Township. If the Township had not allowed them to be part of the environment of Bensalem Township in a controlled environment, they're serving the Township now by the nomenclature of being either a skill game or a game of chance. They are differentiating between the two and so this is one of the changes the Township is making and the Council can address that aspect of it so the Township is not caught in a bad position.

Council Vice President Kisselback's position would be if the choice was not to have any of those type of establishments of games of chance or games of skill throughout Bensalem he would vote 100% not to have them. This being a limited controlled inducement to the industry itself he feels that they are giving them the possibility of them moving along in that field as well as addressing the problem at hand.

Councilwoman Champion agreed with both Council Vice President Kisselback and Councilman Pilieri. Had no idea of the number of these devices within the Township. In most bars and restaurant, you have your regulars that are well known. She is glad that Council is approaching this to ensure that this continues to be able to be enforced in those areas that members of the public would potentially happenstance in on something that could potentially be more dangerous.

Council Vice President Kisselback motioned to approve amending the Ordinance amending Chapter 132, 134 Local Gaming Devices of the Township Code amending 160 Peace and Good Order in the Township, 134-2-e which has to do with electronic video monitors, also eliminate from the current Ordinance section 134-5 Violations and Penalties and subsections C Peace and Good Order, D Crimes Code, Chapter 160.

Solicitor Pizzo indicated that the amendments outlined in that Ordinance would be approved and in addition to everything that is in the advertised Ordinance, also the deletion from the Ordinance as part of Mr. Kisselback’s motion from Section 134-2, subsection 1, subsection e having to do with electronic video monitors as defined in the e version of 5513, beyond that which is already set forth in the advertised Ordinance.

Council President Knowles asked if there was anyone in the audience who would like to speak for or against this Ordinance. Seeing no one come forward the Public Comment was closed.

Council Secretary Benitez seconded and the motion carried 4-1.

6. **CONSIDERATION OF A REZONING:**

Applicant: Ken Fleck – Fol Pen2
Location: 2975 Galloway Road
Zoning Classification: GI – General Industrial & LI – Light Industrial
Tax Parcel: 02-033-066-004

7. **CONSIDERATION OF A LOT LINE CHANGE:**

Applicant: Ken Fleck – Fol Pen2
Location: 2975 Galloway Road
Proposed Use: Foley Cat Lot Modification
Zoning Classification: GI – General Industrial & LI – Light Industrial
Tax Parcel: 02-033-066-007, 02-033-066, 02-033-066-004
02-033-066-003

Solicitor Pizzo indicated that the hearing that is about to be held will be contemporaneous on both items 6 and 7 and Council will do separate motions, one on rezoning and one on a lot line change. For the effort of clarity and so that you are not listening to the same presentation twice, this presentation will be for both items 6 and 7.

Stephani Kobal, Solicitor for the applicant passed out Exhibits to Council members.

Solicitor Pizzo indicated that this evening hearing is a continuation of a hearing that had been duly advertised previously and continued either at the request of the applicant, at the request of the Township or by virtue of the Township having cancelled one or more meetings in the intervening period of time. The underlying application was properly advertised, notices were properly sent out and the Township has properly advised the public the continuation of the matter through tonight’s hearing.

Council President Knowles indicated that this evenings hearing is not for anything being built or anything being developed on these lots. The applicant is to here rezone the property and to request a lot line change of the property.

Ms. Kobal indicated that tonight’s hearing is in regards to a lot line adjustment and a lot consolidation and actually a down zoning of a portion of the southern lot that is all one zoning which is done at the request of Council.

Two witnesses were sworn in. Don Bara, Professional Land Surveyor with Barry Isett & Associates, Inc. Also, Ken Fleck who is a representative of Fol Pen2 and Foley Cat who is the operator of the site.

Ms. Kobal indicated that Fol Pen acquired these four parcels of property on January 12th, 2023 that is evidenced by the Deed which is in Council's packet marked A1. On the two northern parcels Fol Pen operates a Foley Cat Sales and Service facility. The two southern parcels are vacant. This year Fol Pen submitted a lot line adjustment lot consolidation to the plan seeking to adjust the lot line between the northern and southern two parcels so it follows the zoning boundary and consolidate the two northern and the two southern parcels. The end result would be one northern parcel and one southern parcel.

The lot line consolidation is in Council's packet and just for historical references marked this as A2. On May 20th, 2014 the applicant appeared before the Township Council on this request. At that meeting the primary concern of the Township Council was the fact that the lot consolidation would result in the southern parcel being split zoned. One half General Industrial, one half Light Industrial and requested that the applicant can considered down zoning the southern parcel so all of it was zoned Light Industrial. The applicant agreed to consider that request and subsequently submitted its rezoning request to rezone the entire southern parcel as light industrial. A copy of this has been included as A3.

This rezoning request was submitted to the Bucks County Planning Commission which issued a review letter dated September 4th, 2024. A copy of this has been included as A4. The Bucks County Planning Commission commented that the rezoning request is compatible with the Township Comprehensive Plan and is consistent with existing development and will have minimal impact on adjacent land uses. On September 18th, the Planning Commission provided a positive recommendation on the rezoning request.

The matter was on three Township Council meetings and was postponed to date certain via announcement at each of those meetings.

The first witness was introduced to explain the rezoning and the lot line adjustment consolidation and why both requests are appropriate.

Donald Bara employed with Barry Isett & Associates, Department Head of the Land Surveying Division. Mr. Bara is a licensed Land Surveyor in Pennsylvania, Ohio and West Virginia, and has been in the profession for 25 years and licensed for 10 years and has led survey departments at numerous engineering firms.

Mr. Bara is the Land Surveyor for the applicant and sent out notices to the neighboring properties alerting them to this proceeding. Notices were also sent regarding the prior meetings. Mr. Bara indicated that the property is located on the eastern side of Galloway Road. The northern parcel is Foley Cat's Equipment Yard and the southern parcel is vacant.

The applicant is seeking to adjust the lot line between the northern and southern parcel to coincide with the zoning line and was verified by Mr. Bara. The applicant is seeking to change the zoning of approximately 26 acres of land on the southern from General Industrial to Light Industrial which was verified by Mr. Bara.

Mr. Bara verified that he had prepared the plan for both the proposed rezoning along with the associated lot consolidation. And Exhibit A6 was verified to be a true and correct colorized plan of the lot line adjustment plan which was displayed on the projection screen.

Mr. Bara verified the location of the lots as they exist today and where they will exist as proposed and verified the portion of the plan that would be rezoned from General Industrial to Light Industrial which is located in the southern western portion of the lot.

Mr. Bara indicated that as the lots currently exist essentially they have what could be a landlocked portion which would be the eastern side of the southern two parcels which in theory that parcel could be sold and not have access to Galloway Road. For consistency the lots are being consolidated to provide access.

Mr. Bara verified that combining the lots reduces the number of uses to which these lots could be used. Right now, if you have four separate lots under zoning, every lot can be used for a different purpose. Once the parcels are combined there could be one use on the southern lot and one use on the northern lot. The proposed rezoning will not have any adverse impact on the surrounding community. The rezoning request is to allow for a less intense district which would be the Light Industrial District rather than General Industrial District. The proposed zoning would be a more restrictive zoning use than currently exists.

Mr. Bara verified that the purple areas on the plan are the environmentally sensitive areas consisting of wetlands, streams and the associated buffers that are required by the Township around the environmentally sensitive areas. These environmentally sensitive areas like the existing Wetlands also provide essentially additional protection for the neighboring residences in that you can't build in those areas.

The Light Industrial is more restrictive than the General Industrial. There are uses such as sales, office space, as opposed to the General Industrial which would allow for different types of manufacturing, perfume manufacturing, paper manufacturing things of that nature.

To summarize if the proposed rezoning is granted, any development on the entire southern portion of the property particularly the southwestern would be more limited than currently is. The other benefits of down zoning would be that the maximum height of the building would be decreased, also the lot coverage would be decreased so there would be less development allowed on the lot area. In addition to these reductions, as mentioned previously, the biggest protection for the adjoining property owners are the environmentally sensitive areas and the associated buffers and restrictions; and with those there is a fair amount of environmentally sensitive areas on the southern parcel particularly adjacent to the property lines.

Any development that may be considered in the future either by Foley Cat or a potential buyer would be restricted to the non-shaded areas as shown on the plan. There are buffering protections required by the Township and setback protections next to residential districts, landscaping requirements and a Township Noise Ordinance in place.

The proposed rezoning will have a minimal impact on adjacent land uses. The proposed rezoning downzones the permitted uses.

Ken Fleck, Director of EHS Facilities for Foley Cat, verified that the applicant was the owner of the properties. Mr. Fleck verified the posting of the property on January 18th, 2025 which was Exhibit A7. The properties were acquired by Fol Pen on January 12th, 2023.

Mr. Fleck verified the two uses of the northern portion of the property. One is a Caterpillar Facility and a Facility Sales and Service Facility. The southern parcel is vacant. Mr. Fleck is seeking a lot adjustment, a lot consolidation and rezoning.

Mr. Fleck verified there was no land development planned for the southern parcel. Foley Pen intends to market the southern parcel for sale. The four properties are currently subject to General Industrial and Light Industrial. Mr. Fleck verified that if Foley seeks to do anymore development on the northern parcel they would need to come before Council for approval and submit a plan that complies with setbacks, environmental matters and floodplains.

Council Secretary Benitez indicated that putting the two parcels together as one would that not allow the applicant a high percentage impervious surface? By making the lot bigger they are able to have more acreage for the process of sale.

Mr. Bara indicated that there is no improvement on the southern parcel now so there is no impervious coverage existing.

Council Secretary Benitez indicated that Council noted that the max building could not exceed 25 and 55% respectively. In September of 2024 Council increased it to 35 and 65% respectively for the maximum building area.

Council Vice President Kisselback made a proposal to Mr. Fleck and said instead of making it Light industrial they should make it Institutional and donate the parcel to the Township for the assessed value of the property.

Ms. Kobal indicated that she is obligated to present it to the ownership of Foley. That is not what they are here for this evening. Ms. Kobal believes that approving what they are here for would foreclose that possibility and she will certainly present that to the ownership of Foley.

Councilwoman Champion wanted to verify if the houses on the southern lot to the right under Chancellors Glen would be Hidden Valley, and they were.

Council President Knowles asked if there was anyone in the audience that would like to speak for or against this application.

The following residents came forward:

Len Zimmerman, 126 Liberty Drive, asked if the north parcel was zoned General Industrial. The response was yes. If parcel closest to Chancellor's Glen is also General Industrial, so what prevents them from building behind that on his side.

Council President Knowles indicated they have setbacks of the back and setbacks off of the wetlands.

Mr. Fleck indicated that there are Ordinances in the Township that restrict development within the floodplain. The natural characteristics of the floodplain would make any development in that area very highly unlikely.

Council President Knowles indicated that Mr. Fleck clarified that there was no immediate plan for the southern portion of the lot and asked if there was any immediate plan to build on the back lot.

Ms. Kobal indicated that there was a plan going through the Pennsylvania Department of Environmental Protection, it is not for new development; it is because the prior owner decided to add some gravel to the site that the Township did not approve. The Township requested that they go through the development process to clear up the matter.

Margaret Sandoff, 127 Liberty Drive, was very concerned about the dead trees and overgrown vegetation that backs up to her property and asked if anything can be done to resolve the matter.

The Mayor duly noted Mrs. Sandoff's concerns and will look into the matter.

Ms. Kobal indicated that she will notify her client of Mrs. Sandoff's concerns.

Seeing no one else come forward the Public Comment portion was closed.

Township Engineer Wursta commented in regard to if there is any additional approval of some sort. The bottom of the parcel really has no access out to Galloway Road. The site distance is very limited. Mr. Wursta recommended that the applicant agree to provide access easements for future connection at the direction and guidance of the Township Engineer.

Ms. Kobal indicated, that Foley would not be opposed to doing what the Township Engineer suggested, but without a plan for the southern parcel she does not know what that would look like.

Council President Knowles indicated, if something on the southern boarder is proposed they might have to allow an easement through their property on the northern part to get in and out to get to the back.

Township Engineer Wursta indicated that is what he would like them to commit to, and allow that access. Because otherwise if they sell that parcel to anyone who is not friendly, they are entitled to an access out to Galloway Road and they would have to do something with the wetlands. They would still need a right-in, right-out access point.

Ms. Kobal indicated that is candidly why they are not opposed to it in concept. It is hard for Ms. Kobal to commit as PennDOT may have other plans for them. Ms. Kobal is not opposed to talking about it, based on what plans are brought before Council when the southern parcel is developed or candidly when there is true land development on the northern parcel.

Solicitor Pizzo indicated to Mr. Wursta's point that part of the Lot Line change that the applicant is asking Council to approve includes pulling the property line that is dividing what will be the future northern parcel from the future southern parcel. Pulling that property line south into the southern parcel and likely restricting or future restricting as the case may be, where the access

point into Galloway Road would be absent some sort of easement agreement. If an easement agreement like that is not in place, then perhaps following the existing dividing line between north and south makes more sense if that becomes a question of access. It may behoove the applicant to agree to the concept that some sort of a note be added onto the plan that is going to be recorded to reflect this lot line change. That an easement, solely for access to the southern property from Galloway Road, will be provided to the southern property at a location to be determined in the future. At least it is memorialized that that access easement will be provided at that time.

Ms. Kobal indicated as permitted and approved by PennDOT. The reason for the dip-down is so that the property lines coincide with the Zoning District so that they don't have and this gets them around the concern that Council had in May about having a lot that is partially in one district and partially in another district.

Councilman Pilieri indicated that if Council approves this the way it is Council will be approving a landlocked piece of property.

Mr. Bara indicated all of the Township requirements for road frontage, minimum lot width, is compliant with the Township Ordinance. County also reviewed this plan prior to coming to the municipality, it is a conforming lot.

Ms. Kobal indicated that they will agree to the plan note with language acceptable to the Solicitor in the same regard that has been discussed this evening. This is, an easement subject to the approval of the Township at the time the southern lot is developed and subject to PennDOT's approval. Ms. Kobal indicated that she would work with Mr. Pizzo on the language to that effect and to add to the plan before it is signed.

Council Vice President Kisselback motioned to approve agenda item number 6 consideration of a rezoning is approved according to the application, TMP 02-033-066-004 changing the current zoning from GI-General Industrial & LI-Light Industrial to all LI-Light Industrial.

Councilwoman Champion seconded and the motion carried 5-0.

Councilwoman Champion indicated that with all the wording that is being decided to do, someone in the future who may purchase the lot may say, "well you have to let me do this here to go over the wetlands and the creek and everything because you've created a non-conforming lot with no accessible point." Wanted to make sure about the easement and that it was on record as part of the intention.

Ms. Kobal indicated that it had to be a plan note and that plan gets recorded, so any subsequent owners of either the northern or southern would have constructive notice of it as a recorded document with Bucks County.

Solicitor Pizzo indicated that language to the effect that an easement for ingress and egress from Galloway Road to the newly created southern lot shall be provided over the newly created northern lot at the time of land development of the southern lot. Such easement to be located as determined by the Township, the Pennsylvania Department of Transportation and the applicant at the time of the land development application for the southern lot.

Council Vice President Kisselback motioned to approve the Lot Line change as presented this evening with the caveat as Mr. Pizzo just worded, that there will be an easement approved by Council and PennDOT and any other legal issue that would be concerned with that. Councilwoman Champion seconded and the motion carried 5-0.

8. CONSIDERATION OF A PRELIMINARY AND FINAL LAND DEVELOPMENT FOR:

| | |
|-------------------------------|--|
| Applicant: | Penn J Petroleum LLC c/o Bakhshish Sandhu |
| Location: | Knights Road |
| Proposed Use: | Mixed Use – Retail & Office |
| Zoning Classification: | G-C, General Commercial |
| Tax Parcel: | 02-036-245 |

Solicitor Pizzo indicated that the Notices to the adjacent property owners were just handed to him and was reviewing them as they speak.

Council President Knowles indicated that this has gone to a two-story building and the engineering comments indicate that it is a two-story building.

Solicitor Meginniss indicated for the record that for the two-story building it can be listed as a Condition of Approval, but it is a two-story building.

Solicitor Meginniss on behalf of Penn J Petroleum the owner of 2720 Knights Road. The subject property is located in the GC District (General Commercial). It is just under a half acre, 4.3 acres in total.

Solicitor Meginniss indicated that he is here to discuss the construction of an office building on site. The office building that they are proposing is just under 3,000 ft. of gross leasable area, it is a two-story building. The second floor of the building, which is approximately 1,575 sq. ft. is intended to be owner occupied. The outlook with that is right now approximately two employees and then the first floor will have roughly 1,375 sq. ft.

This project has been in the pipeline for a number of years. Dr. Sandhu originally had conversations with Mr. Meginniss' office back in 2020.

They have submitted a version of the original application that was before the Township in 2021. This is something that he has been trying to accomplish in the past 5 years.

This property has historically had a number of issues which have been discussed with the Planning Commission when they appeared before them a couple of months ago. There has been an issue with impermissible truck parking to the plan east version of the site. There was dumping that had occurred over the years. They are excited to move past that, and in its place build a new aesthetically pleasing positive use form of the new office building that they are seeking approval from Council this evening to construct.

There is, as Mr. Meginniss noted, and as you can suspect based upon the limited number of employees no traffic impact. In the WK2 letter there is a large stormwater management improvement on the site based upon the stormwater controls that they are installing versus the

existing condition. The letters, both the traffic and the civil engineering letters are fairly limited in terms of their outstanding comments.

Solicitor Meginniss will make the presentation at the outset that everything in both of those letters are will complies with the exception of a couple waiver requests. Doug Waite with Jones Engineering, Inc. will present a little bit of an overview for Council consideration for what the applicant is proposing. Dr. Sandhu can give additional detail regarding the construction.

Engineer Waite indicated that subject lot is covered with gravel and vegetation in the rear. The proposed condition is to remove a good portion of the gravel and improve the impervious condition of the lot by introducing landscaped areas. There are 15 parking spaces to the side of the lot and a trash container in the rear. There is a separate access to the lot with sidewalks that will access the building. Mr. Waite spoke of other amenities that were proposed for the lot. The overall effect of the stormwater management will greatly decrease the runoff towards the Poquessing Creek which runs behind the property.

Council President Knowles indicated the applicant will agree to pay the Impact Fee.

Mr. Meginniss responded that the applicant will pay the Impact Fee and indicated the following information:

Regarding the Zoning Ordinance Comments. Section 232-59 – Steep Slope Overlay. A. In all zoning districts, for those portions of sites having slopes greater than eight percent, limitations are imposed on the total area allowed to be disturbed. *Applicant provided the computations and limits and have demonstrated compliance with the ordinance.*

Section 232-381 – Area and Height Regulations: No building shall exceed 45 feet in height. *Applicant has revised the building footprint and the number of floors as a result of the Planning Commission's comments, two floors are proposed.*

Section 232-439 – Fire Lanes: There shall be adequate means of fire protection such as, but not limited to, fire lanes of acceptable surface and width, hydrants, fire department connections, or any other method or combination approved by the Bensalem Township Fire Marshal. *Applicant received approval from the Bensalem Township Fire Marshal on September 18th, 2024 based on the fire lane provided on the plan.*

Section 32-586 Off-street Parking: A setback shall be provided which shall not be less than 25 feet in width between the right-of-way and parking areas except that up to a maximum of 25 spaces may have a minimum buffer yard of 15 feet. *Applicant has added a buffer yard of 15 feet.*

No parking of vehicles shall be permitted in the area within 25 feet from the abutting outside boundary of a public street, road or highway, nor within 25 feet from another property line bounding the premises. *Applicant has proposed 15-foot setback, citing a reduction of the existing nonconformity.*

One space should be provided per 200 square feet of gross leasable area. *Applicant has provided the gross leasable area 2989 sf and provided the appropriate 15 parking spaces.*

The following are comments related to the Township's Subdivision and Land Development Ordinances:

Section 201-41. – Preliminary Plan Requirements. The full plan of the proposed land development and/or subdivision including the location, size, run and slope of all ramps required to promote accessibility. *Additional slopes and spot elevations, for the sidewalk from the ADA ramps to the building entrance, are needed. Applicant to include additional detail on the ADA ramps near Knights Road and the sidewalk from these ramps to the building, including slopes and spot elevations.*

A plan showing the location, size, and invert elevation of all sanitary sewer, water distribution, and storm drainage system and the locations of all manholes, inlets, and culverts. *The applicant shall provide an invert elevation on the upstream sanitary cleanout located at the adjacent parcel.*

Section 201-106. – Environmental Protection and Open Space Preservation. Within any land development or subdivision, street trees shall be planted by developer along all streets where suitable street trees do not exist. *Due to the proximity to overhead lines, the applicant shall select suitable trees/greenery, working with the Township and utility owner. The applicant is responsible for not obstructing the clear sight triangle for drivers using this driveway. The applicant is requesting a waiver from this requirement.*

Solicitor Meginniss indicated that it is noted in the Bucks County Planning Commission review it relates to the overhead lines that would preclude the planting of trees in that area. The applicant agreed to providing a fee in lieu of the planting of the trees.

Applicant shall ensure that there is adequate buffer between the proposed detention basin and the adjacent property. Applicant shall ensure grading does not occur within 3 feet of the adjacent property.

The applicant is requesting a wavier, where grades must tie-in closer than 3 feet; The Engineer's office supports this request.

Solicitor Meginniss indicated that due to some of the unique sight constraints there is grading that is within 3 feet of the property line. The waiver request is justified because of client control of the neighboring property.

Councilwoman Champion asked if the applicant had a picture of the proposed office building.



Picture of the proposed two-story office building.

Section 201-111. – Sidewalks. Sidewalks shall be laterally pitched at a slope not less than one-eighth inch per foot to provide for adequate surface drainage. *Slope labels have been added to the plan, applicant shall provide additional slope along all on-site sidewalks.*

Section 201-112. – Motor Vehicle Parking Facilities. A planting strip, average width of ten feet and minimum width of seven feet, shall be provided between the edge of the parking area and the outside wall of the nearest building. *Applicant is requesting a waiver of this section requirement; Engineer’s office supports that action. Bollards have been provided as a mitigation measure.*

Solicitor Meginniss indicated that the applicant will supply Bollards for safety reasons.

The following are comments related to the Township’s Stormwater Ordinances:

Section 196-61. – Design criteria. A minimum of two feet of cover shall be maintained over all storm drain pipes. The top of storm drain pipes shall be at least one-half foot below subgrade elevation. *The applicant is requesting a waiver for the proposed RCP; Engineer’s office supports the action.*

Mr. Waite indicated that the pipe that will be used is a PVC pipe and not the RCP concrete.

STORMWATER MANAGEMENT ORDINANCE COMMENTS

The site discharges to Poquessing Creek Watershed, District C, which has a Chapter 93 classification of Warm Water Fishes (WWF) and Migratory Fishes (MF) and as such the post-development runoff must be controlled to the pre-development runoff for the 2-year, 5-year, 10-year, 25-year, 50-year and 100-year design storms. Based on the Stormwater Management Report provided, the pre- and post-development runoff peak rates are as follows:

| Design Storm Frequency (Yr.) | Pre-Development Flow (cfs) | Post-Development Flow (cfs) | Proposed Change (cfs) |
|------------------------------|----------------------------|-----------------------------|-----------------------|
| 100 | 4.06 | 1.75 | -2.32 |
| 50 | 3.47 | 1.47 | -2.00 |
| 25 | 2.91 | 1.21 | -1.70 |
| 10 | 2.26 | 0.89 | -1.37 |
| 5 | 1.82 | 0.66 | -1.16 |
| 2 | 1.29 | 0.31 | -0.98 |

Solicitor Meginniss indicated that as you can see with the Pre and Post-Development flows as a percentage where at every interval, the 100 year, the 50 year, the 25 year, 10, 5- and 2-year storms they are more than having the storm flow as a result of this.

Council President Knowles asked what kind of building this was going to be.

Dr. Sandhu indicated that the building had 2 stories. The upper story is the office where it will house 2 employees. The first floor will be rented out to an insurance company or something in line. There will be minimum traffic flow and parking requirement.

Councilwoman Champion asked if there was any landscaping to the rear of the building.

Mr. Waite indicated that the existing vegetation was going to remain in the rear except for the only thing back there is a small bit of trenching to connect to the sewer line. There are different size trees and underbrush in the rear of the building.

Solicitor Meginniss indicated that after the building is constructed they can make sure it is maintained appropriately. Over the years some of the issues that this property had as was discussed, with a nice new building there and hopefully a good tenant on the first floor there will be extra incentive.

Council President Knowles asked if there was anyone in the audience that would like to speak for or against this Land Development. Seeing no one come forward the Public Comment was closed.

Councilwoman Champion motioned to approve TMP 02-036-245, located on Knights Road, Penn Petroleum LLC. 202-106 Section A waiver applicant will pay a fee in lieu of. Section 201-106 B waiver where grades must tie-in closer than 3 feet. Section 201-112 A waiver of the panting strip and Bollards have been provided as a mitigation measure. Section 196-61 waiver for the types of drainpipes and the Impact Fee will be paid as noted. Council Secretary Benitez seconded and the motion carried 5-0.

9. **CONSIDERATION OF A RESOLUTION AUTHORIZING CERTAIN INDIVIDUALS TO EXECUTE AND DELIVER SUCH DOCUMENTS AS MAY BE NECESSARY TO DISCHARGE THE TOWNSHIP'S OBLIGATIONS WITH RESPECT TO THE APPOINTMENT OF TRUIST BANK, AS AGENT OF CERTAIN FINANCIAL ASSETS:**

Solicitor Pizzo indicated that with the retirement of William Cmorey as the Township Director of Administration, Truist Bank has requested that the Township provide it with an updated Resolution as to who the authorized signatories are in regard to the Township accounts that they hold. This will just confirm, as is the case before that the Mayor and Mr. Chaykowski remain as signatories that Mr. Cmorey has retired and will no longer be a signatory therefore, the Resolution reflects that fact as well.

Council Vice President Kisselback motioned to approve as presented. Council Secretary Benitez seconded and the motion carried 4-0.

10. **CONSIDERATION OF A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A MUNICIPAL GRANT PROGRAM CONTRACT AWARDED BY THE REDEVELOPMENT AUTHORITY OF THE COUNTY OF BUCKS IN THE AMOUNT OF \$118,900 REGARDING THE BUCKS COUNTY POLICE CHIEFS ASSOCIATION OF RECORDS MANAGEMENT SYSTEM:**

11. **CONSIDERATION OF A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A MUNICIPAL GRANT PROGRAM CONTRACT AWARDED BY THE REDEVELOPMENT AUTHORITY OF THE COUNTY OF BUCKS IN THE AMOUNT OF \$165,000 REGARDING TOWNS AGAINST GRAFITTI:**

Solicitor Pizzo indicated that what he was going to say to Agenda Item 10 also applies to Agenda Item 11. Both are Resolutions accepting Municipal Grant Program Contract with the Redevelopment Authority of Bucks County in regards to their administration of grant funds that the county receives each year. Council has previously approved and the Administration submitted the requests for several Grants. As council is aware tow of them were awarded.

For Agenda Item 10 this would be a Resolution authorizing the Municipal Grant in the amount of \$118,900, and this is for the Bucks County Police Chiefs Association of Records Management System. This is an ongoing Grant that has been awarded requested and awarded for several years now. Bensalem works as the lead agency on this. All 39 municipalities in the County are a part of it.

Council Secretary Benitez motioned to approve as presented. Councilwoman Champion seconded and the motion carried 4-0.

Agenda Item 11, **Council Secretary Benitez** motioned to approve as presented. **Councilwoman Champion** seconded and the motion carried 4-0.

12. **CONSIDERATION OF A RESOLUTION FOR ACT NO. 537. PA SEWAGE FACILITIES ACT, PLAN REVISION FOR NEW LAND DEVELOPMENT OF A PARCEL OF LAND IDENTIFIED AS 6067 WASHINGTON LANE:**

Solicitor Pizzo indicated that this is the standard documentation form for the Department of Environmental Protection for an amendment of the Township's Act 537 Plan, related to the addition for the construction of the house located at 6067 Washington Lane. The form has been reviewed by Administration as required by PennDOT, Bucks County Water and Sewer has signed off.

Councilwoman Champion motioned to approve. **Council Secretary Benitez** seconded and the motion carried 5-0.

13. **CONSIDERATION OF 3 ESCROW RELEASES:**

| | |
|-------------------------------|--|
| A. Developers Request: | Gibson Holdings, LLC – Release #5 |
| Location: | 1515 Gibson Road |
| Tax Parcel: | 2-54-5 |
| Amount: | \$24,088.00 |

Township Engineer Wursta indicated that all 6 lots have been built. The Developer needs to close out the PennDOT work. They need a wearing course on the driveways and the roadway, a few trees have to be planted, grading work and adjustments need to be done. A punch list will be generated for them to correct when the weather permits.

Council Secretary Benitez motioned to approve 1515 Gibson Road, Gibson Holdings, LLC, TMP 2-54-5 in the amount of \$24,800, subject to an Audit by the Finance Department. **Councilwoman Champion** seconded and the motion carried 5-0.

- B. Developers Request: Federation Housing – Release #4**
Location: 4695 Somerton Road
Tax Parcel: 02-003-006-003
Amount: \$157,160.33

Township Engineer Wursta indicated that B and C are together and recommended a release of \$157,160.33 for B.

- C. Developers Request: Federation Housing – Release #5**
Location: 4695 Somerton Road
Tax Parcel: 02-003-006-003
Amount: \$132,990.00

Township Engineer Wursta recommended a release of \$132,990.00. Parking lot is partially stoned, but no paving yet and they have been doing site improvement work as in sidewalks, and things outside the construction area.

Councilwoman Champion motioned to approve as presented subject to an audit by the Finance Department. **Council Vice President Kisselback** seconded and the motion carried 5-0.

14. PUBLIC COMMENT:

Council President Knowles asked if there was anyone in the audience who would like to speak. Seeing no one come forward the second Public Comment was closed.

15. OTHER BUSINESS:

Engineer Wursta – GO BIRDS!!!

Council Clerk McBreen – GO BIRDS!!!

Solicitor Pizzo – NEEDS TICKETS!!!! GO BIRDS!!!

Councilwoman Champion – GO BIRDS!!!

Council Secretary Benítez - Building a Better Bensalem had a successful Unit Week last week. Breakfast is rescheduled at Parx Casino to Monday, February 17th. The Facebook and website should be updated with this information and registration is required. Thanked the Bensalem Police Department for their skills and showing up for the residents of the Township.

Councilman Pilieri – GO BIRDS!!! and GO FLYERS!!!

Council Vice President Kisselback mentioned the most important day. Sunday, February 2nd – Groundhog Day, chuckle, chuckle.

Council President Knowles indicated that he would love the **Eagles** to win the Super Bowl! Our Police Department handled a very difficult situation with absolute professionalism.

16. ADJOURNMENT:

There being no other business to discuss, the meeting was adjourned.

The Bensalem Township Council Meeting of January 27th, 2025 can be viewed in its entirety at the following websites:

www.bensalempa.gov

or

www.youtube.com

Respectfully Submitted,

Debora F. McBreen
Recording Secretary