

**TOWNSHIP OF O'HARA  
COUNCIL VIRTUAL COMBINED  
WORKSHOP AND REGULAR MEETING MINUTES  
JUNE 8, 2021**

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Manager Jakubec noted virtual meeting procedures.

I. OPENING PROCEDURES

- A. Call to Order by President Smith at 7:00 p.m.
- B. Pledge of Allegiance led by President Smith.
- C. Roll Call

Council Members Present: Robert John Smith, President of Council; Charles A. Vogel, Vice-President of Council; George H. Stewart, Second Ward; Gregory Caprara, Third Ward; Allison Berger, Fourth Ward; Cassandra Eccles, Fifth Ward; John R. Denny, Jr., At-Large

Also Present: Ted Curran, Treasurer; Julie A. Jakubec, CPA, CGMA, Township Manager; Dan Garfinkel, Township Solicitor; Charles W. Steinert, Jr., P.E., Township Engineer; Loren R. Kephart, Public Service Superintendent; Scott K. Slagel, Police Superintendent; Cathy Bubas, Manager's Secretary

II. APPROVAL OF MINUTES

- A. Council Workshop – May 4, 2021
- B. Council Public Hearing 1 – May 11, 2021
- C. Council Public Hearing 2 – May 11, 2021
- D. Council Regular Meeting – May 11, 2021

Motion by Mr. Denny, Jr. to approve the subject Minutes as corrected was seconded by Mr. Stewart.

Mr. Stewart officially apologized to Council and the public for speaking about the Township's esteemed Treasurer, Ted, during one of last month's meetings. Because Ted was running for election it really wasn't appropriate for him to have that discussion at the meeting.

The motion carried unanimously.

III. FINANCE

- A. Vouchers – May 2021

Motion by Mr. Denny, Jr. to pay the subject Vouchers as presented was seconded by Vice President Vogel.

Mr. Stewart presented questions which staff answered satisfactorily.

Treasurer Curran questioned the invoice from Lennon Smith Souleret Engineers, which is larger than normal, which Manager Jakubec and Mr. Steinert, Jr., P.E. explained.

On voice vote the motion carried unanimously. The Vouchers total \$891,758.65.

#### B. Receipts and Expenditures Records – April 2021

Motion by Mr. Denny, Jr. to accept the Receipts and Expenditures Records as presented was seconded by Mr. Stewart and carried unanimously.

#### C. Treasurer's Report

Treasurer Curran indicated finances look good. He would review the balance sheet in detail after June. Items noted were the strong housing market and staff's management of expenses. The Township has officially moved bank accounts to Dollar Bank.

### IV. REPORTS

#### A. Other Organizations and Agencies Reports

Mr. Stewart stated a small group of the RIDC Business Alliance members met to discuss projects for 2021, including public safety. Manager Jakubec noted she is looking for a grant to possibly get some sidewalks in the park. Mr. Stewart noted speeding issues have continued on Delta Drive. He also stated the Alliance wants to be involved in the ten-year plan. Food trucks will be offered from private properties in RIDC. Mr. Stewart stated the Alliance is trying to put together a comprehensive database of the businesses in the park.

Ms. Cindy Harris, Fox Pointe, stated the proposals for the Long Range Comprehensive Plan Consultant have been received. Three consultants will be interviewed in person. Mr. Stewart noted the interviews will be recorded. Ms. Harris expressed concerns related to interviewing at a public meeting and if the recording could be public after a consultant is chosen. Solicitor Garfinkel was not sure if any of the consultants' information would be confidential. Mr. Denny, Jr. suggested a conversation offline with the Solicitor and Long Range Comprehensive Planning Committee.

#### B. Monthly Department Reports

Vice President Vogel stated the Riverwatch retention basin was cleaned out over the weekend and has drained. He questioned if the Township needs to inspect the basin. Mr. Steinert, Jr., P.E. indicated the outfall would be inspected. He also noted a meeting with the developer is scheduled to discuss what they need to do before the Township would consider accepting dedication. Manager Jakubec added that the developer also needs to pay the Township for snow plowing prior to accepting dedication.

Vice President Vogel referenced MS-4 documents with regard to types of plants for the retention ponds, noting knotweed has been used. It was noted knotweed is an invasive plant and needs to be addressed.

Vice President Vogel referenced Lennon Smith Souleret's report with regard to storm water management plans for Powers Run stream restoration, sanitary sewer relocation, and emergency permit. He noted the sewer relocation does not have a start date and the stream restoration is scheduled for summer/fall 2021. Mr. Steinert, Jr., P.E. stated the Township received a grant to start the stream restoration work. When the sanitary sewer relocation begins, the restoration work will also begin up to the point of where the sewer line crosses.

Mr. Stewart referenced a number of grass violations on the Code Enforcement Officer's report, and questioned if the Township has an ordinance as far as how high grass can be. Manager Jakubec referenced the Nuisance Ordinance, and noted so far staff has only had to cut one property, which the expense was liened against the property.

Mr. Stewart inquired about the status of IT services. The Manager explained Maher Duessel is no longer providing IT services as part of new GASB requirements. They have referred their clients to Ford, who has similar pricing.

Mr. Stewart commended staff for pursuing grants.

#### C. Township Manager's Report

No comments.

#### V. Review / Discussion / Possible Action

##### A. Proposed Ordinances

- (1) Ballot Question Amending Home Rule Charter to be Gender Neutral B-23-2021

Manager Jakubec explained the proposed ordinance was prepared by the Township Solicitor and provides for a ballot question to the electors for the November 2021 election, concerning an amendment to the Township Home Rule Charter to be gender neutral. The ordinance was introduced during the April 13<sup>th</sup> regular meeting and a Public Hearing was conducted on May 11<sup>th</sup>, prior to the regular meeting.

Motion by Ms. Eccles to adopt ordinance Bill No. B-23-2021 was seconded by Ms. Berger and carried unanimously.

- (2) Ballot Question Amending Home Rule Charter to Remove the Political Affiliation Requirement for Appointment to Vacant Council Seat B-24-2021

The Manager stated the proposed ordinance was prepared by the Township Solicitor and provides for a ballot question to the electors for the November 2021 election, concerning an amendment to the Home Rule Charter to remove the political party affiliation requirement for appointment to a

vacant Council seat. The ordinance was introduced during the April 13<sup>th</sup> regular meeting and a Public Hearing was conducted on May 11<sup>th</sup>, prior to the regular meeting.

Motion by Vice President Vogel to adopt ordinance Bill No. B-24-2021 was seconded by Mr. Denny, Jr.

During the lengthy discussion, the following comments were noted:

Mr. Caprara reiterated his thought that making the Home Rule Charter inclusive is not about nullifying the party requirement, it's about adding the possibility for an Independent to replace an Independent. He feels very strongly that when someone is voted in along a party process, taking the party away nullifies the vote of those people. The perception of this the way it is written, is that Council will have a free pass to appoint whoever they want and maintain majority control based on what they want to do. He suggested amending the language to be inclusive as opposed to completely wide open for the abuse of power. Vice President Vogel explained every party would have to be named. Mr. Caprara stated if the only requirement is that you live here, you are taking away the checks and balances of the electoral system. He commented that it is disingenuous for any of Council to think about this in a manner based on personal opinion. He believed in a process where something like this is brought to Council's attention through a petition process. This is a public issue and it should be done by the public, and in all probability, if there is interest, it will be done. Necessary signatures will be gathered, and he and all of Council could certainly sign the petition. Council is disenfranchising people that vote on the basis of the philosophy of the party.

Mr. Stewart stated upon his thorough review of the matter brought up by the public, perhaps the public should see it through as it may be outside of Council's purview in that it deals with the election process. People will sign a petition and ask to have it on the ballot if it is something they really want and feel strongly about.

Vice President Vogel stated the Home Rule Charter allows Council to deal with it, and explained the two ways to get a referendum on the ballot; there's an easy way and a difficult way. The easy way is for Council to pass the ordinance and let the voters decide; or Council can present an impediment to the citizens and they will have to circulate a petition, which he offered to sign. He noted many rules from 200 years ago have changed, such as women voting; Civil Rights, etc. Just because something has been around a long time does not mean it should continue. Council is talking about a document that was implemented in 1973, and has subsequently been amended, by a vote of the people; not a vote of Council. Council cannot make any changes to this document; only the voting residents.

Mr. Denny, Jr. questioned if Council wrongfully informed a constituent to hold off because Council indicated they would do it. His recollection was it is something Council could do. If Council is going to tell the constituents we're not going to do it, Council is free to do so, but he felt disingenuous because Council led a constituent to believe Council would do it. Council has spent over seven months debating, arguing, and discussing the matter with every indication Council was moving to make a decision whether or not to put it on the ballot. Mr. Denny, Jr. explained Pennsylvania is one of eight states that has a closed Primary election wherein taxpayers pay for the two parties to make their nominations. If you are an Independent, you cannot run in the Primary. Therefore, you have no chance of being considered even if a Council Member was

to resign. Pennsylvania's closed Primary disenfranchises over 1.1 million Pennsylvanians. As a result, Council is disenfranchising a large number of Township residents from serving on Council or being appointed for a vacancy unless they choose a political party. Mr. Denny, Jr. stated the only way Council can make it inclusive is to open it up and remove the party affiliation as criteria. Mr. Denny, Jr. stated all the arguments have been laid out one way or another and with a vote Council will see where the chips fall, to which Vice President Vogel agreed. Mr. Denny, Jr. called for the vote because this matter has been discussed for seven months.

Ms. Sokalski stated there is a lot of distrust now. This has been going on for seven months, been delayed; no decision was made; no constructive feedback. She brought the matter to the table and the fact that there is a gap about Independents or a different party to fill a vacancy. She is really disappointed with this process and understands this is a political system. She noted how Congress appoints vacancies, and other local governments appoint with no party affiliation. Ms. Sokalski commented that it seems O'Hara Township is the exception and has a political, partisan issue where it really doesn't need to be.

President Smith recalled most of Council agreed to review and consider placing the question to the voters. He questioned if Council made a commitment to place the question on the ballot. Ms. Eccles recalled some of Council agreed to consider it, but not all seven Council Members. President Smith, Ms. Eccles and Vice President Vogel concurred that no vote was taken on the matter. President Smith noted one of the problems is if the residents vote 'no', Council still doesn't know what to do when a Council Member changes political party after being elected, and then resigns. Even though this matter has been discussed for seven months, it has not been thought through. He also noted he would have to vote 'yes' to an ordinance he disagrees with so the public can vote on it.

Mr. Tom Portante, Margery Drive, stated the whole system is political and needs to be run in a political manner. There are reasons why there are systems outside of Council to make a change. Mr. Portante believed it should be a difficult process because it is a change to the underlying fabric of running Township business.

On roll call, Mr. Caprara, Ms. Eccles, and Mr. Stewart opposed; Mr. Denny, Jr., Ms. Berger, and Vice President Vogel voted in favor. President Smith, being the deciding vote, voted in favor, stating, "let the people decide." He also wished there was more public participation. He hoped when people vote, they know and understand what they are voting on. Mr. Stewart and Mr. Caprara stated they do not like the process.

(3) Clarifying the Current Vacancy Election Procedure  
Consistent with 1983 Ballot Referendum

B-44-2021

Manager Jakubec recalled the 1983 ballot question asked if the Home Rule Charter should be amended so appointed Council Members can serve until the next general municipal election, rather than the next election, as it is in the original Charter. The electorate voted in favor of the Charter change, but the change was never written into the Charter. To clarify when the appointed vacancy would be filled by an actual election, the Township Solicitor suggested Council consider passing an ordinance that states in 1983 the voters approved the ballot question; this is how it is interpreted by Council; and has been addressed for the past number of years. She noted the proposed ordinance reaffirms the electorate's decision.

Motion by Mr. Caprara to introduce for first reading ordinance Bill No. B-44-2021, was seconded by Vice President Vogel.

Ms. Eccles questioned if the current Home Rule Charter states 'next general election'. Solicitor Garfinkel explained in 1983 the ballot question was 'Shall Section 309 and 1107 of the Township Home Rule Charter be amended to permit appointed Council Members and Auditors to serve until the next general municipal election' and the answer was 'yes' and has been the practice, but the Home Rule Charter was not amended. The proposed ordinance will conform the Home Rule Charter with the practice and the 1983 amendment. Ms. Eccles noted if the next election is not the municipal election, Council would have to wait for the next municipal election. Mr. Stewart noted additional costs would be incurred if not done in the municipal election. He also noted an appointed person could serve 18 months. His preference was if the costs were not that great, that a person could be elected sooner. Ms. Eccles recalled the estimated cost to get someone on the ballot to be \$4,000 or \$5,000. If Council decides to save \$4,000 or \$5,000, she questioned who is choosing; Council or the people. Vice President Vogel stated if Council wants to change it, it would have to go to referendum again. Ms. Eccles believed the Charter should be changed again, and Vice President Vogel and Mr. Denny, Jr. agreed.

Mr. Denny, Jr. questioned timing to get the change on a referendum for the November election. Manager Jakubec doubted there would be time to get it on the November election ballot.

Vice President Vogel stated this ordinance just says it should be put into the published Home Rule Charter. Whether Council adopts or turns down this ordinance, nothing changes.

Solicitor Garfinkel noted the new ordinance is red-lined and provides a record of what happened. As it is now, there's no amendment to the Home Rule Charter; just the ballot question.

President Smith noted the proposed ordinance clarifies the process. If someone were to read the Home Rule Charter on the website, they would see the original language and not 'the next municipal election'. He suggested tabling the ordinance.

Vice President Vogel questioned why the clarification has to be done by ordinance and not by motion or resolution; it was already voted on. President Smith requested the Solicitor to determine if it could be done another way.

The motion by Mr. Caprara and Vice President Vogel was amended to table action on the proposed ordinance. The motion carried unanimously.

## B. Proposed Resolutions

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| (1) Requesting Final Land Development Approval for the<br>Hidden Grove Plan | B-45-2021 |
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The Manager stated the Township Planning Commission reviewed the subject application at its May 24, 2021 meeting and has recommended to Council that approval be granted subject to the remaining seven (7) conditions. She acknowledged Mark Schmidt of Hampton Technical Associates and Shaun Seydor of Pitell Homes were in attendance on behalf of the applicant.

Vice President Vogel noted condition number seven indicates a waiver will be needed and questioned the procedure. Manager Jakubec noted a waiver is usually addressed with final approval.

Manager Jakubec asked Mr. Seydor if he was requesting the waiver, to which he replied, “yes”.

Motion by Vice President Vogel to grant the waiver, as concrete curbs do not last long, was seconded by Mr. Caprara.

Mr. Denny, Jr. recalled an offer of a donation of trees in lieu of the concrete curb requirement. He stated the Township does not accept donations.

On voice vote, the motion to grant the waiver carried unanimously.

President Smith suggested changing the concrete curb requirement in the Subdivision and Land Development ordinance.

Manager Jakubec read the conditions of approval since the developer had not seen the proposed resolution. Mr. Seydor agreed to the conditions of approval.

Manager Jakubec noted Ms. Berger needed to leave the meeting to address a personal matter.

On roll call, the motion carried unanimously.

- (2) Requesting Authorization to Participate in the North Hills COG Sodium Chloride Contract B-46-2021

The Manager stated for the past several years the Township has shared contracts for the purchase of sodium chloride with the State and North Hills Council of Governments (“COG”). The North Hills COG received bids for the purchase of sodium chloride and has determined that Morton Salt submitted the lowest bid, with a cost of \$72.83 for Rock Salt delivered, compared to \$69.36 for the 2020-2021 winter season.

Motion by Mr. Denny, Jr. to approve resolution Bill No B-46-2021 was seconded by Vice President Vogel and carried unanimously.

- (3) Requesting Authorization to File a Grant Application with ALCOSAN Through the GROW Program for Sewer Overflow Reduction B-47-2021

Manager Jakubec noted the resolution authorizes the filing of an ALCOSAN Grant Application through the GROW Program to fund a project that proposes to reduce the sewer overflow at the ALCOSAN point of connection A-85 and the Township’s 2021 Sanitary Sewer Lining Repairs Project.

Motion by Ms. Eccles to approve resolution Bill No. B-47-2021 was seconded by Mr. Denny, Jr. and carried unanimously.

(4) Recognizing the Services of Lisa Steimer

B-48-2021

The Manager informed Council that Lisa Steimer has submitted her resignation from the Township Zoning Hearing Board. It has been past practice to recognize residents that have served on Township Boards and Commissions.

Motion by Mr. Stewart to approve resolution Bill No. B-48-2021 was seconded by Ms. Eccles and carried unanimously.

C. Review and Discussion

(1) Discussion of Council Packet Information Availability to the Public

The Township Manager recalled meeting with the Township Solicitor to discuss what additional information from the Council packet could be made available to the general public. A memo from the Township Solicitor outlined items for Council's consideration. The items listed would be watermarked accordingly, i.e. draft 1, draft 2, unaudited, and dated.

Mr. Denny, Jr. stated he did not have a chance to read the Solicitor's memo. Vice President Vogel agreed with all of the Solicitor's recommendation, but suggested thinking about other documents that should be made available. Ms. Eccles preferred to look at it and think about it a little longer. She agreed the public should have something to look at during a meeting.

President Smith acknowledged people have been asking for more information but the list would not be public until a decision has been made.

Mr. Stewart suggested if the public can submit a right-to-know request, it should be included. He also suggested providing items now that they know are available to the public, to help in terms of following the meeting.

President Smith stated Council will leave that up to the Manager and Solicitor to decide what to make public and schedule further discussion.

Manager Jakubec informed Council that she is not comfortable deciding arbitrarily what should or should not be public. If Council agrees that items 1 through 11 are to be public she would move forward making it public. She requested specific direction from Council on exactly what is to be public, and questioned if Council wanted to think about it and further discuss next month.

Ms. Harris stated she did not know what numbers 1 through 11 are because she does not have the list, which is part of the problem. She felt anything available to the public with a public information request should be made available to the public.

Solicitor Garfinkel clarified not all of the information would be available with a right-to-know request. The items listed in the memo are a consideration of what to make available that otherwise would not be.



Ms. Harris stated all she is asking for is the stuff that is available under a right-to-know request.

President Smith stated Council is discussing if items 1 through 11 should be available to the public, and if the public wants something added to the list, the Solicitor will need to review and determine if it should be available to the public.

Ms. Harris stated she would trust Manager Jakubec to notice something that might not be appropriate and to check with the Solicitor before including it, for every meeting.

President Smith acknowledged the Manager does not want to decide if something should be public.

Manager Jakubec addressed Ms. Harris noting certain items on the list and how it would be marked. She stated resolutions are not subject to the Right-To-Know Law, but if Council authorizes making a resolution public, it would be marked 'draft' 1, 2, 3, etc. Manager Jakubec requested direction from Council, noting if Council is comfortable with items 1 through 11, they would be made available to the public along with the agenda next month. She questioned if Council was comfortable releasing draft resolutions, which are not subject to the Right-To-Know Law, adding that draft ordinances are not public.

President Smith believed all of Council was comfortable providing items 1 through 11 to the public. He also requested additional information from the Solicitor about making draft resolutions and draft ordinances available to the public.

Mr. Denny, Jr. requested an opportunity to read the Solicitor's memo before making any additional information in the agenda packet public.

President Smith noted further discussion would continue at the July workshop after Council has an opportunity to think about items which may or may not be public information.

## (2) Solicitor's May 18, 2021 Invoice

There were no comments.

## VI. Citizen Comments Concerning Non-Agenda Items

Mr. Portante asked if Council would do a redistricting of the wards after the census data is released. He reviewed the information and believed the redistricting should be done by the end of this year.

Mr. Denny, Jr. asked if the Home Rule Charter addresses how to proceed with redistricting. Mr. Portante stated the Charter just says it is to be done. Vice President Vogel noted state laws on how it is to be done. Mr. Portante indicated the state laws are the requirements for state offices. The Charter just says to redistrict, which is not an easy process because the Township is not contiguous. The redistricting needs to be done in time for the next election in 2022.

Mr. Denny, Jr. stated Mrs. Kline, a High School Teacher that teaches AP Government courses, has won recognition for drawing the lines of governmental districts. He suggested possibly involving Mrs. Kline.

Solicitor Garfinkel referenced Section 301 of the Home Rule Charter, which states the year following the decennial census.

President Smith and Vice President Vogel recalled attempts to redistrict in 2010. Solicitor Garfinkel recalled looking at it ten years ago and believed the districts were within the parameters.

Mr. Denny, Jr. indicated he would ‘take a crack at it and engage the community’.

## VII. Concerns of Council

Ms. Eccles stated the Falconhurst emergency exit appears to have eroded at the gate and the trees were not planted. Mr. Kephart recalled planting pine trees. Manager Jakubec requested staff to go look and verify if the trees survived.

### C. Staff

Manager Jakubec noted the Historic Signs have been ordered; rain garden signs have been placed at the community center for MS-4 education; a food drive is being held to collect for the Sharpsburg Food Pantry; this Saturday the Township, along with Aspinwall and Sharpsburg Boroughs, will kick-off the glass recycling program from 10:00 a.m. to 2:00 p.m.; and the amount of American Rescue Plan Act funding has been applied for. There are two tranches; half will be distributed this year and half next year; and the Township will receive \$920,984.40, which is an increase from \$870,000.

Mr. Steinert, Jr., P.E. stated he has received quotes for concrete curb replacement in RIDC. The contractors are busy and anticipate beginning the work in August. For the record, Mr. Steinert, Jr., P.E. announced that his wife works for one of the contractors, but has no involvement in the contract.

## VII. ADJOURNMENT

Motion by Ms. Eccles to adjourn the meeting was seconded by Mr. Stewart and carried unanimously. The meeting adjourned at 9:15 p.m.

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Cathy Bubas, Manager’s Secretary

Attachment: Attendance Sheet