



**COLLEGE TOWNSHIP COUNCIL
REGULAR MEETING MINUTES
Thursday, October 6, 2022
7:00 PM**

**1481 E. College Avenue, State College PA 16801
Hybrid Meeting (In-Person or via Zoom)**

**ATTENDED BY –
COUNCIL:**

D. Richard Francke, Chair
Carla Stilson, Vice Chair
Paul Takac
L. Eric Bernier
Dustin Best

STAFF:

Adam T. Brumbaugh, Township Manager/Secretary
Don Franson, Township Engineer
Amy Kerner, P.E., Public Works Director
Lindsay Schoch, AICP, Principal Planner
Mark Gabrovsek, Zoning Officer
Jennifer Snyder, CGA, Assistant Township Secretary

OTHERS:

Louis Glantz, Solicitor

CALL TO ORDER: Mr. D. Richard Francke, Chair, called to order the October 6, 2022, Regular Meeting of the College Township (CT) Council at 7:00 PM and led in the Pledge of Allegiance.

ANNOUNCEMENT: The College Township Council met in Executive Session on September 22, 2022, to discuss a legal matter.

OPEN DISCUSSION:

Chair Francke offered that today, October 6, 2022, is United Way Day of Caring. He thanked all those who give of their time to make this event successful.

NEW AGENDA ITEMS:

No New Agenda Items were brought forward for action on the agenda.

SPECIAL PRESENTATION:

SP-1 CT Industrial Development Authority



Mr. Lamartine Hood, Chair, College Township Industrial Development Authority (CTIDA), offered an annual update to Council. He began with a brief introduction of the establishment and mission of the CTIDA. An eight-member board appointed by the CT Council governs the CTIDA. Mr. Hood offered there are four (4) Board Committees, Loan, Finance, Marketing and Governance, who meet and make recommendations to the at-large Board.

The CTIDA has provide more than \$120 million to over 175 businesses since its inception. The CTIDA currently serves five (5) businesses with loans; four (4) with participating loans (co-lending agreements) with the Chamber of Business and Industry of Centre County with the fifth loan being a direct loan. Clients include Abington Equine Hospital, Actuated Medical, Dominight, Elk Creek Café and Xact Metal.

The CTIDA has approximately \$3 million in assets of which 40% are invested with clients. The balance is with local banks and investment firms. The CTIDA is constrained by the PA Economic Development Financing Act as to the types of investments allowed.

The CTIDA pays College Township for administrative and financial support. Currently, Township Manager, Adam Brumbaugh, is the acting part-time Executive Director. The Board has intentions to add a part-time independent contractor to serve as the Executive Director in the near future. Mr. Jeff Stover serves as solicitor to the CTIDA.

Mr. Hood requests that Council approve to extend the agreement between the Township and the CTIDA to continue with the services of Mr. Brumbaugh as Executive Director through December 31, 2022. It is likely a further extension request will come before Council at the end of the year.

Mr. Hood also asked Council to actively seek candidates to fill the two vacant terms on the Board. Further, he asked that once Council has identified qualified candidates, before they are officially appointed, the CTIDA Chair and Vice Chair meet with the individual candidates to ensure that they understand the responsibilities and personal commitment for serving on the board.

Chair Francke moved NB-1 CTIDA Executive Director Agreement with College Township to this point on the agenda.

NB-1 CTIDA Executive Director Agreement with College Township

Mr. Takac, Council liaison to the CTIDA, offered that the CTIDA is making progress under the direction of Mr. Brumbaugh. Council asked Mr. Brumbaugh if the hours are still manageable. He indicated that it is getting easier as the Committees are functioning properly.

Ms. Stilson made a motion to approve the College Township Manager to continue to provide Executive Director services to the College Township Industrial Development Authority from October 1, 2022, through December 31, 2022, in accordance with the previously approved Memorandum of Understanding. Mr. Bernier seconded the motion. Motion carried unanimously.



REPORTS:

a. Manager's Update

Mr. Adam Brumbaugh, Township Manager, offered updates on the Pike Street project. There was an emergency meeting with Columbia Gas and the Public Utility Commission (PUC) concerning repeated gas line hits by contractor. Paving to commence October 6, 2022.

Mr. Brumbaugh reported the following:

- Consultant interviews for the Form Based Codes RFQ set for October 25, 2022;
- Solar Power Purchase Agreement RFP results due back by October 19, 2022;
- Spring Creek Park Master Draft Document received;
- Neighborhood Committee presentation delivered to LTAC (next meeting October 26);
- Notifications to organizations with roles to play on the Thompsons Woods Preserve Governance and Advisory Committees sent;
- Casino FAQ and Timeline updated; and
- Executive Session with Solicitor held and results to be discussed.

b. COG Regional, County, Liaisons Reports

Centre County Metropolitan Planning Organization (CCMPO): Mr. Bernier reported the CCMPO Coordinating Committee met on September 27, 2022, and discussed the CCMPO Public Participation Plan; State College Area Connector (SCAC) Project; CCMPO BIL subcommittee report; CCMPO Strategic Plan; and, the CCMPO Draft calendar year budget.

COG Facilities: Mr. Bernier reported the COG Facilities and Centre Region Parks Authority met in a joint meeting on October 4, 2022, and discussed the Whitehall Road Regional Park Phase I development; the Millbrook Marsh Nature Center (MMNC) Spring Creek Education Building Phase II and Welcome Building; the MMNC Boardwalk Feasibility Study part #2; and, the COG Building ownership.

Mr. Brumbaugh added discussion related to the Boardwalk and an extension from a 5' path width to an 8' path width. This will be placed on a future agenda for a discussion with Council.

Council discussed vandalism that has been occurring in many places in the Township. Chief Garner has been contacted.

COG Parks Governance: Mr. Francke reported the Parks Governance Committee met on September 26, 2022, and offered that the committee has reached a point where a facilitator is needed to finalize the draft governance documents related to the mission and purpose of the committee.

COG Finance Committee: Chair Francke reported the Finance Committee met to discuss the 2023 budget. The budget presented represented a 16.86% increase overall with College Township's share reflecting 23% increase. The Centre Region Managers sent a letter to the COG Staff stating this increase is untenable. The Managers asked that COG look to get their increase to under 8%.



c. Staff/Planning Commission/Other Committee Reports

Planning Commission (PC): Ms. Schoch reported the PC had a brief meeting on Tuesday, October 4, 2022, and heard an educational report on the Zoning Hearing Board, and discussed the Regional Growth Boundary and Sewer Service Area.

d. Diversity, Equity & Inclusion (DEI) Reports (Public Invited to Report)

Council discussed resolutions that occur every year related to recognition of cultural diversity and asked Staff to research how to best move forward with these yearly resolutions.

CONSENT AGENDA:

CA-1 Minutes, Approval of

- a. September 15, 2022, Regular Council Meeting

CA-2 Correspondence related to the Nittany Mall Casino

- a. Email from Liz Haushalter, dated September 12, 2022, regarding Casino
- b. Email from Erin LaMotta, dated September 12, 2022, regarding Casino
- c. Email from Pamala Zimmerman, dated September 12, 2022, regarding Casino
- d. Email from Christine McDonald, dated September 12, 2022, regarding Casino
- e. Email from Daniel Materna, dated September 15, 2022, regarding
- f. Email from Daniel Materna, dated September 12, 2022, regarding Casino
- g. Email from Barbara Furman, dated September 13, 2022, regarding Casino
- h. Email from Daniel Materna, dated September 14, 2022, regarding Casino
- i. Email from Daniel Materna, dated September 14, 2022, regarding Casino
- j. Email from Andrew Cunningham, dated September 14, 2022, regarding Casino
- k. Email from Andrew McKinnon, dated September 15, 2022, regarding Casino
- l. Email from Ray Bigler, dated September 15, 2022, regarding Casino
- m. Email from Daniel Materna, dated September 18, 2022, regarding Casino
- n. Email from Daniel Materna, dated September 19, 2022, regarding Casino
- o. Letter from Lawrence and Barbara Hutchinson, dated September 13, 2022, regarding Casino
- p. Email from Daniel Materna, dated September 20, 2022, regarding Casino
- q. Email from Mel Westerman, dated September 20, 2022, regarding Casino
- r. Email from Daniel Materna, dated September 21, 2022, regarding Casino
- s. Email from MacDonald Heebner III, dated September 21, 2022, regarding Casino
- t. Email from Andrew Shaffer, dated September 22, 2022, regarding Casino
- u. Email from Brea Asbury, dated September 22, 2022, regarding Casino
- v. Email from Bridget Donnelly, dated September 22, 2022, regarding Casino
- w. Email from Bonnie Drips, dated September 22, 2022, regarding Casino
- x. Email from Mariah Chuprinski, dated September 22, 2022, regarding Casino
- y. Email from Michelle Rodino-Colocino, dated September 22, 2022, regarding Casino
- z. Email from Linda Bonness, dated September 22, 2022, regarding Casino
- aa. Email from Bill Rose, dated September 22, 2022, regarding Casino
- bb. Email from Kristen Boccumini, dated September 22, 2022, regarding Casino
- cc. Email from Susan Streit, dated September 22, 2022, regarding Casino
- dd. Email from Marie Hamilton, dated September 23, 2022, regarding Casino
- ee. Email from Joanna Haushalter, dated September 23, 2022, regarding Casino
- ff. Email from Ayse Erkan, dated September 23, 2022, regarding Casino
- gg. Email from Merlin Ritz, dated September 23, 2022, regarding Casino
- hh. Email from Pris Shea, dated September 23, 2022, regarding Casino



- ii. Email from Christopher Uhl, dated September 23, 2022, regarding Casino
- jj. Email from Barry Kroeker, dated September 23, 2022, regarding Casino
- kk. Email from Vaughn and Kathryn Shirk, dated September 26, 2022, regarding Casino
- ll. Email from Andrew Shaffer, dated September 26, 2022, regarding Casino
- mm. Email from Carol Camargo, dated September 26, 2022, regarding Casino
- nn. Email from Daniel Materna, dated September 26, 2022, regarding Casino
- oo. Email from Maria Hamilton, dated September 27, 2022, regarding Casino
- pp. Email from Susan Strauss, dated September 27, 2022, regarding Casino
- qq. Email from David Werner, dated September 28, 2022, regarding Casino
- rr. Email from Andrew Shaffer, dated September 28, 2022, regarding Casino
- ss. Email from Daniel Materna, dated September 29, 2022, regarding Casino
- tt. Email from Martha Micuda, dated September 28, 2022, regarding Casino
- uu. Email from Charity Barger, dated September 29, 2022, regarding Casino
- vv. Email from Phyllis Gardener, dated September 28, 2022, regarding Casino
- ww. Email from Myrna Yearick, dated September 30, 2022, regarding Casino
- xx. Email from Anna Engels, dated September 30, 2022, regarding Casino
- yy. Email from Priscilla Shea, dated September 30, 2022, regarding Casino
- zz. Email from Joseph T. and Mary Jane Stout, dated October 1, 2022, regarding Casino
- aaa. Email from Patricia Kelly Dimond, dated October 2, 2022, regarding Casino
- bbb. Email from Karen Patzer, dated October 2, 2022, regarding Casino
- ccc. Email from Don Leon, dated October 2, 2022, regarding Casino
- ddd. Email from Jean Witmer, dated October 2, 2022, regarding Casino

CA-3 Correspondence, Receipt/Approval of

- a. Letter from Windstream Services, LLC, dated September 1, 2022, regarding Windstream D & E Systems, Inc.'s Cable System Franchise Agreement
- b. Email from Neil Brandt, dated September 16, 2022, regarding Thompson Woods Preserve continued rules violations and signage destruction
- c. Email from Gretchen Brandt, dated September 19, 2022, regarding Thompson Woods Preserve continued rules violations and signage destruction
- d. Letter from Centre County Conservation District, dated September 6, 2022, regarding, Completeness Notification Letter – Rhodes Lane Condominiums
- e. Email from Village of Canterbury Home Owners Associations, dated September 18, 2022, regarding meeting request with CT Council
- f. Letter from Larsen Design Group, dated September 20, 2022, regarding Geisinger Clinic Scenery Drive Land Development withdrawal
- g. Letter from PA Department of Environmental Protection, dated September 21, 2022, regarding Abandoned Oil and Gas Wells
- h. Letter from Koch Funeral Home, dated September 16, 2022, regarding DEP Permit Application Facility-wide Air Quality State Only operating permit
- i. Letter from Penn Terra, dated September 27, 2022, regarding Time Extension request to January 17, 2023, for Steve Shannon Tire and Auto
- j. Letter from Citizen's Climate Lobby, dated September 26, 2022, regarding thanks for R-22-11
- k. Email from Sara Parks, dated September 28, 2022, regarding resignation from the CT Industrial Development Authority effective September 27, 2022

CA-4 Action Item, Approval of

- a. Project #22-12 Anti-Skid awarded to Hanson Aggregates Pennsylvania LLC, in the amount of \$8,250.00.

Chair Francke offered sincere thanks to Ms. Sara Parks, long-term College Township Industrial Development Authority Board member, who tendered her resignation.

Council asked to discuss CA-3.f., CA-3.i., CA-3.g. and CA-3.e.



CA-3.f. – Geisinger Clinic Scenary Dr. LDP Withdrawal: Mr. Brumbaugh offered that he spoke with the Geisinger project manager. He reminded him that a land development plan after approval is good for five-years. Council is only accepting the letter as correspondence.

CA-3.i. - Extension Steve Shannon Tire and Auto: Staff pointed out that there was some issues with the ECR (Easement, Covenant and Restriction) agreement but those have been worked through and the plan should be recorded soon.

CA-3.g. – Abandoned Oil and Gas Wells: Mr. Best asked if anyone was aware of any abandoned gas wells in College Township. There are none. Council asked that Staff get this information on the website.

CA-3.e. – Village of Canterbury HOA Meeting: Mr. Brumbaugh reported that Staff has met with the Village of Canterbury Home Owners Association. In his opinion, Staff answered their questions satisfactorily, however, they would like to meet again with Staff and a few members of Council. Chair Francke and Ms. Stilson will make themselves available to meet.

Mr. Bernier made a motion to approve the October 6, 2022, Consent Agenda.

Ms. Stilson seconded the motion.

Motion carried unanimously.

OLD BUSINESS:

OB-1 Nittany Casino Legal Opinion

In a memorandum to Council, dated September 30, 2022, Mr. Brumbaugh, Township Manager, offered that at both the September 1, 2022, and the September 15, 2022, CT Council meeting, Council reviewed and discussed Staff modifications to the Township's Frequently Asked Questions (FAQ's) and the Timeline on the CT website. A legal opinion was received from the Township Solicitor concerning hypothetical communication to the Pennsylvania Gaming Control Board (PGCB) related to opting-out of accepting a Category 4 gaming license in the Township. Solicitor Glantz provided a definitive opinion on August 26, 2022, noting the Township's right to opt out expired 60 days after the effective day of the Act, which was July 2, 2019. He further summarized the Township cannot opt out of gaming under the Act and cannot, based on other government delays, rescind the conditional approval of the Macy's gaming site.

During the September 1, 2022, CT Council meeting discussion, Council again directed Staff to request a legal opinion from the Township Solicitor to further explore the possible ramifications of a hypothetical communication to the PGCB indicating a Township desire to opt-out of accepting a Category 4 gaming license in the Township. Staff wrote to the Solicitor on September 7, 2022, asking the Solicitor to opine on legal and financial ramifications of a hypothetical opt-out letter and to speak to unintended consequences of such a letter.

Solicitor Glantz provided this second legal opinion on September 21, 2022, and Council met in Executive Session on September 22, 2022, with the Solicitor to discuss. Based on questions raised by Council during the Executive Session, the Solicitor provided supplemental information in a letter dated September 26, 2022.



The September 26, 2022, Solicitor opinion builds on the August 26, 2022, legal opinion and further contemplates hypothetical actions Council might take in reference to the conditionally approved land development plan (LDP) for the proposed project. The Solicitor states that a hypothetical letter to the PGCB could be viewed as an intent to interfere with the validly approved plan. The Solicitor opined the ramification of such interference by the municipality could, and likely would, result in a civil suit versus the Township. The Solicitor also considered whether the Township would have immunity for a hypothetical action to deny accepting a gaming license – to interfere – in the PGCB approval. Referencing case law, the Solicitor conveyed the court held there is no immunity if the municipality knew its actions would violate the defendant's due process right. There is also little chance that the Township insurance carrier would provide coverage. The Solicitor stated that it is his opinion the Township should not take any action, which could be construed as interference or hampering with the developer's Gaming Control Board approval.

Staff is asking that Council review the legal opinion and advice provided by the Township Solicitor and discuss what actions, if any, should be taken.

Chair Francke provided an opportunity for Council to ask questions of Solicitor Glantz.

Ms. Stilson asked Solicitor Glantz if writing a letter to the PGCB letting them know of all of the public input the Township has received from the community since the closing of the state's public comment period would put the Township in any legal jeopardy. Solicitor Glantz offered there is a risk at doing anything and could be interrupted as interference. It would open the Township up to financial exposure.

Mr. Takac asked for clarification on the Tort Claims Act, which has been mentioned in correspondence received by Council. Solicitor Glantz opined the Township would have no immunity under this Act because the Township has already conditionally approved the plan. Any action to delay would be interpreted the same as a denial and expose the Township to legal ramifications.

Solicitor Glantz added that he sought out five (5) other attorneys for their advice on this matter, all of which are familiar and active in local government and constitutional law. It was their opinion that the Township cannot and should not take any action to delay or deny the process. He added the insurance coverage, by an intentional act, could be voided and/or cover only legal fees and not damages, should any action be taken. Solicitor Glantz added the suit would most likely exceed the claim limit of any insurance policy and would exceed \$20.1 million,

Chair Francke opened the floor for public comments, starting first with College Township Residents.

Ms. Fay Burtch, State College Borough resident, offered comments against the casino.

Mr. Steven Smith, CT resident, offered comments against the casino.

Ms. Jaylene Smith, CT resident, offered comments against the casino.

Ms. Carol Camargo, CT resident, offered comments against the casino.

Ms. Alicia Hughes, CT resident, offered comments against the casino.

Mr. David Hatfield, CT resident, offered comments against the casino.



Ms. Maria Hamilton, CT resident, offered comments against the casino.
Ms. Kristin Boccumini, CT resident, offered comments against the casino.
Ms. Karlyn Gieger, CT resident, offered comments against the casino.
Ms. Suzy Strait, CT resident, offered comments against the casino.
Mr. Kirk Heller, CT resident, offered comments against the casino.
Ms. Michelle Rodino, State College Borough resident, offered comments against the casino.
Mr. Andrew McKennon, Ferguson Township resident, offered comments against the casino.
Ms. Dorothy Blair, Harris Township resident, offered comments against the casino.
Mr. Horacio Perez-Blanco, State College Borough resident, offered comments against the casino.
Ms. Janet Nelson, CT resident, offered comments against the casino.
Ms. Joanna Santamaria, Connecticut, offered comments against the casino.
Mr. Andrew Shaeffer, State College Borough resident, offered comments against the casino.
Mr. Randolph Hudson, Ferguson Township resident, offered comments against the casino.
Ms. Sue Jackson, Ferguson Township resident, offered comments against the casino.
Ms. Lisa Poole, Ferguson Township resident, offered comments against the casino.
Mr. Paul Schaeffer, State College Borough resident, offered comments against the casino.
Mr. Todd Orndorff, Bellefonte Borough resident, spoke in favor of the casino.

Chair Francke closed the public comment period.

Ms. Stilson would like Staff to determine if this category 4 license, if awarded, could be expanded based on the state's decisions down the road. Mr. Bernier asked that this information, when discovered, be added to the website.

Ms. Stilson made a motion that College Township formally forward all correspondence received since the closing of the state's public hearing indicating that this is the public comments that the Township has received since the close of their hearing.

Mr. Bernier seconded the motion.

Mr. Brumbaugh asked if the motion reflects all correspondence received since the public hearing on August 16, 2021, or the close of the public comment period on June 12, 2022.

Ms. Stilson added clarification to the motion to state forwarding all correspondence on the consent agenda and meeting minutes as it relates to the casino, since the close of the public comment period on June 12, 2022, with a simple note stating what is contained in the information.

Solicitor Glantz asked the intent for sending said correspondence to the PGCB. If it is to delay or deny, Council opens themselves up for legal liability. The public comment period has closed and if additional public comments are sent, the PGCB may think it is an action of the Board.

Mr. Takac asked for further clarification. Solicitor Glantz offered that all of this information/public comments are available on the Township website. Anyone can send the link to the PGCB. He opined sending it as a body, it may not be construed as public comment but as a formal action of Council to deny or delay.



**Chair Francke called the question.
Motion failed zero – 5.**

Chair Francke called for a recess of the meeting at 9:47 PM. The meeting was reconvened at 9:59 PM.

NEW BUSINESS:

NB-2 Cable Franchise Agreement with Patton, Harris, College

Mr. Brumbaugh reported the Township received notification from the Cohen Law Group that the Shentel Corporation, the Shenandoah Cable Television, desires to negotiate a cable franchise agreement with Centre Region municipalities, specifically College, Harris and Patton Township. Mr. Brumbaugh noted that while CT participates with the Cable Area Cable Consortium (CACC) in a cable franchise agreement with Comcast, that agreement is not exclusive. This allows CT and other members to negotiate cable franchise agreements with multiple providers.

Provided to Council is an engagement letter with Cohen Law Group to allow them to represent CT in upcoming cable franchise discussions. Cohen Law Group represented the CACC in negotiations with Comcast. Shentel agrees to cover 100% of CT legal fees related to the engagement of Cohen Law Group to assist in franchise negotiations.

Mr. Best made a motion to authorize the College Township Council/Manager to execute an engagement letter for legal services and representation with the Cohen Law Group for the purposes of negotiating a cable franchise agreement with Shenandoah Cable Television, operating as Shentel.

Ms. Stilson seconded the motion.

Motion carried unanimously.

NB-3 Wildlife Corridors Protection; PennEnvironment Letter

Mr. Brumbaugh offered that Council received a letter from PennEnvironment, Research and Policy Center, concerning municipal support for advocating on behalf of the creation of Wildlife Corridors in Pennsylvania. This letter urges state leaders to take steps to help protect, preserve and restore wildlife corridors in PA.

Council discussed adding their name in support of this initiative. Staff will reach out to find how to be added as a supporter.

STAFF INFORMATIVES:

Council asked about the UAJA minutes, which reflect that the State College Borough has elected not to pay the full amount of their first and second quarter UAJA bills for sewer service, but instead are escrowing a portion of their payment. Mr. Brumbaugh provided an explanation.



OTHER MATTERS:

Chair Francke and Mr. Brumbaugh will be attending the Pennsylvania Municipal League Leadership Summit Pittsburgh this coming weekend.

Chair Francke thanked members of Council for their diligence and patients during the discussion of the Casino.

Mr. Bernier offered that he would not be in attendance at the next meeting. He wanted to make sure there would be a quorum.

Mr. Takac offered that he misunderstood the motion related to OB-1 Nittany Casino and should have asked for a clarification before the vote was taken. Council discussed a reconsideration of the motion.

**Mr. Takac made a motion to reconsider the vote on OB-1.
Mr. Best seconded the motion.
Motion carried unanimously.**

**Ms. Stilson made a motion to send the correspondence and the minutes related to the casino received since the close of public comments on June 12, 2022, to the PA Gaming Control Board with a note stating what is in the contents.
Mr. Bernier seconded the motion.
Motion failed. 1 – 4 with Ms. Stilson and Messrs. Bernier, Best and Francke voting against the motion.**

ADJOURNMENT:

**Ms. Stilson moved to adjourn the October 6, 2022, Regular College Township Council Meeting.
Chair seconded the motion.**

Chair Francke adjourned the October 6, 2022, Regular College Township Council Meeting at 10:29 PM.

Respectfully Submitted By,

Adam T. Brumbaugh

Adam T. Brumbaugh
Township Secretary