

**PLAINFIELD TOWNSHIP
SPECIAL BOARD OF SUPERVISORS MEETING
SEPTEMBER 19, 2019**

The special meeting of the Plainfield Township Board of Supervisors was held on Thursday, September 19, 2019 at the Plainfield Township Municipal Building, 6292 Sullivan Trail, Nazareth, PA 18064.

Chairman, Randy Heard, called the meeting to order at 7:00 P.M.

The Pledge of Allegiance was performed.

ROLL CALL:

The following Supervisors answered roll call: Chairman, Randy Heard, Vice Chairman, Glenn Borger, Joyce Lambert, Jane Mellert, and Stephen Hurni.

Also present were Secretary, Paige Stefanelli, Township Manager, Tom Petrucci, Solicitor, David Backenstoe, Esq., Special Environmental Legal Counsel, John Embick, Esq., Special Environmental Engineering Consultant, Phillip Gray, P.E., Alternate Township Engineer, Robert Lynn, P.E. and Special Environmental/Wetlands Consultant, Mr. Jason Smith, PWS.

NEW BUSINESS:

1. GRAND CENTRAL SANITARY LANDFILL, INC. (PEN ARGYL ROAD, PEN ARGYL, PA 18072) SLATE BELT HEAT RECOVERY CENTER PROPOSED LAND DEVELOPMENT PLAN:

Township Solicitor, David Backenstoe, briefly provided a summary of the project review since it has been submitted to the Township. The Planning Commission has been reviewing this application for approximately 2.5 years. Solicitor Backenstoe stated that the original plan was withdrawn by the applicant in 2017 and resubmitted a new plan in February of 2018 following that withdrawal. The Board of Supervisors is here today in order to review the application. He added that in August, the applicant advised administration that they would like a vote at the last Planning Commission meeting and that they would not be providing anymore Extensions of Time with Plainfield Township.

The current deadline for this project review is September 30th, 2019 and the Board of Supervisors must render a decision by the specified date. The applicant must abide by all requirements as set forth within the Municipalities Planning Code (MPC).

Solicitor Backenstoe added that at the last Planning Commission meeting, the Planning Commission thoroughly reviewed outstanding items pertaining to the application and once outstanding items were reviewed and discussed, the applicant was willing to provide

the Township with a 30 day Extension of Time. The Planning Commission then requested a minimum of 90 days due to the fact that the Planning Commission would like an Environmental Impact Study (EIS) performed for the proposed facility. The applicant was unable to grant the 90 day request as they needed to discuss the matter with their superiors. At that time, the Planning Commission convened on September 9th, 2019 to recommend that the Board of Supervisors deny the plan.

At this time, the Township received an Extension of Time request for 18 months. Solicitor Backenstoe noted that this extension request would provide an expiration date of March 31, 2021. He added that the Board of Supervisors does not need to accept the Extension of Time request for the full 18 months and could request a lesser amount. The second option would be to approve the plan with conditions. Currently, there is no agreement with respect to the conditions, therefore, this is no longer an option for the vote tonight. The third option for the Board of Supervisors is to deny the plan in its entirety and act on the recommendation of the Planning Commission.

With respect to granting an Extension of Time, if the Board of Supervisors felt as though that this is a use by right use, and ultimately the applicant would meet all necessary conditions, the applicant has checked off all boxes, the Board has authority to grant an Extension of Time which will provide additional time for discussion/deliberation. Solicitor Backenstoe added that the Planning Commission has done its due diligence on reviewing. He added that Tom Petrucci, Township Manager, has done an extraordinary job in managing this application review.

Solicitor Backenstoe stated that there are many outstanding issues to date. There are two variances that the applicant must obtain relief for which include setback provisions and an access way to the facility. He added that whether or not the applicant has a strong position on the matter is irrelevant at this point in time. The applicant has the ability to appear in front of the Plainfield Township Zoning Hearing Board, but the outcome is unknown. If the applicant feels that the Zoning Officer has not made the right determination, they can appeal that determination to be heard in front of the Zoning Hearing Board. The Zoning Hearing Board could then grant the applicant relief if they agreed that the Zoning Officer was incorrect in his determination. However, the result could be the opposite and the Zoning Hearing Board may uphold his determination. Solicitor Backenstoe added that the Planning Commission nor the Board of Supervisors can grant zoning relief when the Zoning Officer has made a determination. They cannot deter from that.

Project Manager, Mr. Jim Hecht, stated that the applicant has a very long relationship with the Planning Commission. They have offered to make many changes and additions

to the plans, however, it is still not to the liking of the Planning Commission. Mr. Hecht was under the assumption that they have addressed the variance issues within their entirety. They learned at the last Planning Commission meeting that this was not the case and both variances are still not addressed at this time. The applicant noted that they did not have time to fix all the issues by the last Planning Commission meeting and offered the Planning Commission a 30 day Extension of Time in order to discuss the matter with their superiors as they did not have authorization at the time to offer a 90 day extension, as requested. Mr. Hecht added that he would have come back to the Township in order to submit a new, longer, Extension of Time once authorization was provided. After speaking with their superiors, the applicant wanted to put the extension issues to rest and that is the reasoning for the 18 month Extension of Time discussed briefly tonight. The applicant needs additional time to make the changes as requested by the Planning Commission.

Mr. Mike Brennan, on behalf of the applicant, stated that they did not attempt to appear in front of the Zoning Hearing Board as they believed that they were in compliance with the requirements for the two variances. On the buffer issue particularly, the applicant felt that a condition would be more appropriate than a variance. If they were to obtain a permit from the Department of Environmental Protection (DEP) to fill the basin, then the 50 foot buffer will exist. Thus, that variance would not be required at that time. The basin is shown on the plan as if they were to be approved by DEP for filling of the basin. The proposed access road off of Pen Argyl Road would restrict through traffic and would instruct trucks to enter through the S.R. 512 (Pennsylvania Ave) entrance. The applicant believed this was the perfect solution because of safety concerns by using access off of Pen Argyl Road. Mr. Brennan added that the ordinance only states that you need an entrance and exit off of a road and that the use of the proposed access way doesn't pertain to the road, however, Township Manager, Tom Petrucci stated in a letter that the use does in fact matter. The applicant's position is that the Environmental Impact Study is not required by the ordinance. Based on Case Law and PA Supreme Courts, the applicant believes they are in good standing and does not believe the Township has the authority to request an EIS. Mr. Brennan stated that they as the applicant believe they are on solid ground but are willing to work with the Township.

Mr. Hecht stated that their intention is to work these issues out with the Township. They are not looking to stand on a technicality and would rather work it out with Township Officials. Everyone believes the safest access for the proposed facility would be S.R. 512.

Attorney, Elizabeth Witmer, stated that Solicitor Backenstoe has outlined 3 options for the Board of Supervisors to consider. The applicant has offered an Extension of Time for 18 months based on the complexity of some of the remaining issues. This is not

something that is easily discussed in a 30 minute meeting. The extension is to allow for resolving the remaining issues. If the applicant cannot come into compliance with the required variances, then they will attempt to receive relief from the Zoning Hearing Board. Attorney Witmer added that the applicant did not ask for the Zoning Officer's final determination as they are hopeful that they can meet the requirements without the need for variances. Attorney Witmer noted that she would like to discuss what the thoughts are of the Board of Supervisors, and not the thoughts of the Administrative Staff as it is not their call.

Attorney Embick stated that the applicant and Plainfield Township are in disagreement with the request of an EIS and the Township still believes that an EIS must be performed.

Chairman, Randy Heard, stated that no major changes have been done on the plan. He questioned why the applicant is no longer in a rush for a vote considering that they have been pushing for a vote the past few Planning Commission meetings. Mr. Heard questioned why the remaining items that the Planning Commission wanted addressed were not taken into consideration in the first place. Attorney Witmer stated that they have submitted the plan multiple times and have changed the plan multiple times. She added that there is now one remaining letter which is quite clear and concise on what needs to be done. Attorney Witmer feels that they have made all adjustments necessary.

Mr. Hecht stated that there were many issues with scheduling conference calls/meetings considering all of the individuals that were involved. Those calls would then create more issues that needed to be addressed by the applicant which the applicant would attempt to put together before the upcoming meeting. Chairman, Randy Heard, questioned who had the final say in the Extension of Time timeframe. Mr. Hecht stated that the Extension of Time had to be agreed upon between Corporate Headquarters of Synagro Technologies, the Project Manager Team, and Waste Management.

Mr. Hecht stated that the applicant can likely address all remaining issues by next month, however, they proposed a longer time frame just in case. Mr. Heard noted that he has never seen a plan review take such a long period of time. He added that the applicant could have applied for relief for the two variances that have been identified two years ago when they first learned about those variances. Such relief was never applied for by the applicant. Mr. Heard added that the Board of Supervisors refer to the body of water on the land as a pond pursuant to the Township ordinance. Additionally, this pond ties into the groundwater of Plainfield Township. Mr. Heard added that there are fish currently present in the pond which does not constitute a sedimentation basin. Mr. Mike Brennan stated that they have addressed all legitimate issues and the only remaining issue to his belief is having the sedimentation basin filled in order to meet the setback requirements.

Township Manager, Tom Petrucci, stated that the Township is preempted by the DEP. However, there are remaining SALDO and Zoning issues with respect to the pond that are not currently addressed. The existing top of the bank is where the measurement must begin for the buffer. The applicant does not currently satisfy the SALDO requirements for the buffer. Mr. Jim Hecht stated that the applicant did not attempt to appear in front of the Zoning Hearing Board on the matter, however, they should have done so. However, the applicant is now aware that they will need to appear in front of the Zoning Hearing Board in order to obtain relief for the buffer requirement issue.

Ms. Jane Mellert noted that 11 time extensions were granted for the Planning Commission to review the application. She added that Synagro was the entity to request a vote at the last Planning Commission meeting. Ms. Mellert stated that the applicant is still not in compliance with the requirements as set forth within the Township's review letter. She added that the list of outstanding items is very extensive. She understands that the applicant is attempting to make this facility work in Plainfield Township, however, the Township and Synagro are not in agreement with all items that need to be addressed. Mr. Jim Hecht added that if you take the list from the beginning of the review to where they are at in the process now, the applicant has made substantial progress. He added that some issues have been completely resolved. Chairman, Randy Heard, noted that this community is already subject to a landfill facility and with the EIS that has been requested multiple times, this proposed facility will also have a major impact on the community. He added that this community is not what it used to be and having facilities such as this is not attractive for new individuals to move into the Township. There is also the potential for odors. Mr. Hecht stated that nothing Mr. Heard brought up is new. Mr. Hecht believes the Board was never going to consider the application based on Mr. Heard's previous comment.

Chairman, Randy Heard, questioned how long it took for Synagro to come to an agreement with Waste Management prior to submitting an application to the Township for this proposed project. Mr. Hecht stated that it took approximately 1.5 years of negotiations prior to submitting the plan to the Township. Mr. Hecht added that this use is covered under the Zoning District. Mr. Hecht added that they have come a long way from where they started. Mr. Heard stated that this Township was the first Township to specifically get this type of application for this specific facility from Synagro. He added that this specific facility is not located anywhere else and the applicant truly does not know how it will impact the Plainfield Township Community.

Ms. Mellert questioned how many years the facility will operate once the Green Knight facility closes. Mr. Hecht stated that they extract a great amount of BTU value from the methane gas, however, the facility will run for approximately 20 years.

Chairman, Randy Heard, questioned whether the applicant will be submitting a full EIS. Mr. Hecht noted that they are willing to scope out the EIS. He added that they have previously submitted a large environmental study, however, cumulative and long term effects were not explored in that study. Attorney Embick stated the applicant shall perform a no-alternative analysis. Attorney Embick noted that this study will take time to compile.

Mr. Robert Lynn noted that in reference to plan completion, the remaining comments include references from Ms. Trudy Johnston's review letters regarding environmental/wildlife impacts. He added that those comments are the ones remaining at this time and such comments have been a disagreement/struggle since day one of review. Mr. Lynn added that the supplemental information for studies referencing their proposal is what the applicant is struggling with.

Solicitor Backenstoe added that there is no further input from the Board or the applicant at this time. There are currently two options remaining for the Board of Supervisors to consider. He added that the Township has prepared two resolutions. The first option is to completely reject the extension, except a lesser extension, or accept the extension as is. The second option is that the Board can take action on denying the plan. Solicitor Backenstoe stated that based on his participation with the Planning Commission's review and his determination of the law, he believes the Board of Supervisors have acted in good faith. If the plan were to be denied, the applicant has the right to file an appeal. The entire record since the plan was submitted to the Township in February of 2018 would then be reviewed by the State Trial Court. The applicant also has the option to file a new application as well. Solicitor Backenstoe stated that there is nothing illegal or incorrect with either or both of those matters taking place. He added that these are options the Township cannot control.

Mr. Hecht agrees that the Township acted in good faith throughout the entire review process. He also believes that the applicant got cut short at the last Planning Commission meeting because they did not have the authority they needed by their superiors and did not have many options to act on. Mr. Hecht stated that they cannot address any zoning issues at this point in time. Solicitor Backenstoe added that the Planning Commission requested that an EIS be done in March of 2018. Since then, it has been requested at every meeting. Mr. Brennan added that they have submitted a package that included an environmental review but it did not satisfy the Planning Commission for an EIS. Chairman, Randy Heard, does not understand why there are many remaining items on the table that could have been addressed previously.

Chairman, Randy Heard, made a motion to deny the plan. Mr. Brennan requested a 5 minute recess.

Chairman, Randy Heard, withdrew his motion to deny the plan. A brief recess took place from 8:15 P.M. to 8:20 P.M.

Mr. Brennan stated the applicant, Grand Central Sanitary Landfill, Inc. and Slate Belt Heat Recovery Center, LLC. hereby withdraws the Major Subdivision and Preliminary Land Development Plan for Slate Belt Heat Recovery Facility for land owned by Grand Central Sanitary Landfill, Inc. and prepared for Slate Belt Heat Recovery Center, LLC., Green Knight Economic Development Corporation and Grand Central Sanitary Landfill Inc., sheets 1- 23, dated February 6, 2018 last revised August 13, 2019, prepared by EarthRes Group, Inc. and all associated materials.

In order to formalize the withdrawal of the plan in its entirety, Mr. Michael Brennan provided a written statement to the Board of Supervisors and Solicitor Backenstoe which was signed by Mr. Michael Brennan and Mr. Jim Hecht as authorized representatives for the applicant. The written statement specifically named the applicant and the entire application package that was submitted.

Solicitor Backenstoe stated that since there is no matter to be heard in front of the Board at this time, the Board can no longer make a vote on this plan. He added that even if the Board denied the plan, the applicant could have submitted a plan the next business day.

ACTION: Motion was made by Chairman, Randy Heard, and seconded by Glenn Borger to approve the applicant's withdrawal of the Major Subdivision and Preliminary Land Development Plan for Slate Belt Heat Recovery Facility for land owned by Grand Central Sanitary Landfill, Inc. and prepared for Slate Belt Heat Recovery Center, LLC., Green Knight Economic Development Corporation and Grand Central Sanitary Landfill Inc., sheets 1- 23, dated February 6, 2018 last revised August 13, 2019, prepared by EarthRes Group, Inc. and all associated materials.

Prior to the vote, Chairman, Randy Heard, asked if there were any comments from the governing body or the public. Motion approved. Vote 4-0-1 with Stephen Hurni abstaining.

PUBLIC COMMENT:

Marie Huck- Ms. Huck stated that the value of their home will decrease if the facility were to be placed into the Township. She added that potential residents will not want to live here. She is worried of contamination of farms where local residents purchase foods from. She does not understand why the Township can't vote no if residents simply do not want this facility in their community.

Elisa Carlo- Ms. Carlo has received over 1,000 signatures from residents and other associated personnel who are in agreement that they are against this proposed facility. She noted that residents already have to deal with the smells emanating from Waste Management and doesn't want to add additional nuisances. She noted that the placement of this facility is not a good idea.

Peter Layman- Mr. Layman appreciates the thorough review by both the Planning Commission and Board of Supervisors. He added that everyone will be back discussing the same issues at hand once a new application is submitted. Pen Argyl Borough appreciates the diligence and effort put into the review of this application.

Tracy Carluccio- Ms. Carluccio knows the applicant has right to withdraw, however, she believes this is really abusing the system. She added that they have a large financial budget which will allow them to attempt for approval of this project. Ms. Carluccio believes the applicant is attempting to take advantage of Plainfield Township. She added that this is very wrong. Ms. Carluccio stated that the entire issue with this facility is water. She noted the pond is a water of the Commonwealth. The Township has the right to protect the waters. Ms. Carluccio believes that this facility will cause pollution and endanger the public health of residents and animals.

Tom Carlo- Mr. Carlo noted that it was quite odd that the applicant did not hire a stenographer to take minutes of the last two meetings that were held in reference to Synagro. He added that the applicant constantly states that they will fix the issues but they are still not in compliance to date. He added that the applicant wants to bleed the Township dry of its financial funds to review this plan. Mr. Carlo stated that any article the applicant may give noting that the facility is safe, he will find one that proves it is not safe. Mr. Carlo stated that there are carcinogens found within the biosolids and that the applicant is not here in good faith.

Rachel Rosenfeld- Ms. Rosenfeld noted that she is disappointed for the community and the Township. She added that the Township has reviewed this plan thoroughly. She noted that it is very disappointing knowing that the Township will most likely have to review

this plan all over again. She is grateful to the Township for recently passing a Conservation Ordinance.

Emmanuel Demaris- Mr. Demaris read aloud legal standing of laws in reference to the plan. He added that the applicant is wrong to say that the requirements set forth by the Township do not need to be followed. He added that the law requires the applicant to abide by all laws as set forth by the Township. He noted that the proposed site is already over used by Waste Management. There are many current impacts from Waste Management which include hazards and odors. He added that approving this plan would be in violation of the law. Mr. Demaris stated that there is a facility in Philadelphia which polluted nearby waters. He stressed that the Board must deny this plan. He also noted that the CDC stated that biosolids have harmful chemicals which can cause death and deformities. Mr. Demaris believes there should be zoning provisions passed that does not allow this type of use in the Township.

Howard Klein- Mr. Klein stated that the Planning Commission, Township Manager, and the hired consultants have done a great job with reviewing/managing this application. He noted that the applicant was quick to withdraw the plan once the motion of denial was given. Solicitor Backenstoe added that the applicant withdrew their plan strictly in front of the Township and that this does not affect the DEP permit review. Mr. Klein doesn't want to see the Township get taken advantage of. Mr. Klein added that the applicant also made it clear that the DEP will not issue any permits until all local permits have been issued/approved. He added that it is unacceptable that the Township was not involved in the last DEP meeting that took place before the meeting was scheduled.

Don Moore- Mr. Moore stated that back in April 2019, there was a Planning Commission meeting where Ms. Pam Racey announced there would be a meeting with the DEP to discuss the sedimentation basin. Mr. Petrucci asked if the Township can attend this meeting. Mr. Pullar agreed that the Township will be invited to attend. Mr. Moore noted the Township received the invite for the 11:00 A.M. meeting but not for the 10:00 A.M. meeting that was supposedly taking place. The meeting that took place without the invite of the Township took 1 hour and 20 minutes.

Mr. Moore added that the applicant still needs variances. He added that he does not understand how the applicant did not know that they needed to obtain variances to move forward until now.

Gerard Lennon- Mr. Lennon questioned what the Board of Supervisors would have voted if the applicant did not withdraw their plan. Solicitor Backenstoe stated that he may ask in person after the meeting, however, the question is not relevant at this point in time.

Sherry Acevado – Ms. Acevado noted that out of all municipalities, Plainfield Township has really done its due diligence with this review. She added that the patience the Planning Commission and Board of Supervisors had with the applicant was fantastic. She requests that both the Planning Commission and Board of Supervisors maintain their threshold and stay firm on upholding Township ordinances. She stated that the community is going through climate change. Ms. Acevado stated there are many invasive species and insects in this area which is why regulations exist in order to have a balance. Ms. Acevado noted that if an application is resubmitted, she would like to see the cutoff date with 21 days for submitted materials. She added that the applicant will need to comply with all Township ordinances.

Tom Carlo- Mr. Carlo stated that from day one of the review, this application is Synagro only and that Waste Management is not a part of the application, however, if the applicant were to submit again, Waste Management is involved.

Linda Osparne- Ms. Osparne stated that she loves the environment of the Township and she recently found out that there is a landfill in the area after just moving in to the Township. She was not pleased to find out about this submission.

David Flyte- Mr. Flyte questioned how long the applicant has to pay the outstanding bills from the Township. Mr. Petrucci noted that all remaining payments will need to be paid in full before the submission of a new plan. There is approximately \$21,000.00 owed to the Township.

Don Moore- Mr. Moore stated that if Waste Management was concerned about the environment, he recommended that they close the landfill and allow the Township to regain access to the Township Trail connection where the easement currently exists. He added that this is the best trail connection possible for the trail which connects Wind Gap Borough and Pen Argyl Borough through Plainfield Township.

Samantha Juchem- Ms. Juchem stated that she does not understand why the applicant wants to place this facility in Plainfield Township. She added that she would not want to buy a house in this area knowing this facility may be built here.

Robin Aetner- Ms. Aetner stated that she is a Lehigh County resident. She noted that water, air and life matter. If this were to be resubmitted, there are a lot of issues to consider during review.

ADJOURNMENT:

Having no further business to come before the Board of Supervisors, motion was made by Glenn Borger and seconded by Chairman, Randy Heard, to adjourn the meeting. Motion approved. Vote 5-0.

The meeting adjourned at 9:15 P.M.

Respectfully submitted,

Thomas Petrucci, Township Manager/Secretary
Plainfield Township
Board of Supervisors

These minutes were prepared with the assistance of the Administrative Assistant of the Township, Paige Stefanelli, under the direction of the Township Manager/Secretary.