

**PLAINFIELD TOWNSHIP**

**PLANNING COMMISSION REGULAR MEETING**

**April 16, 2018**

The regular monthly meeting of the Plainfield Township Planning Commission was held on Monday, April 16, 2018 at the Plainfield Township Municipal Building, 6292 Sullivan Trail, Nazareth, PA 18064.

Chairman, Paul Levits, called the meeting to order at 6:59 P.M.

The Pledge of Allegiance was performed.

**ROLL CALL:**

The following Commissioners were present at the meeting: Chairman, Paul Levits, Vice-Chairman, Robert Simpson, Robin Dingle, Jeffrey Beavan, Terry Kleintop, and Secretary, Paige Gerstenberg.

Also present were Township Manager, Tom Petrucci, Solicitor, David Backenstoe, Esq., and Township Engineer, Mike Kukles.

**APPROVAL OF MINUTES:** None

**TIME EXTENSIONS:** None

**PLANS TO BE TABLED:** None

**NEW BUSINESS:**

**1. TIMBER HARVESTING ORDINANCE DRAFT- NO. 275:**

This ordinance provides for the protection of the Appalachian Trail corridor. The Township is concerned about the scenic views, sounds, and the future of the environment. Additionally, there was a forestry issue which was discussed to merge this matter into the same project. Most of the discussion previously has been in reference to forestry.

This draft addresses lighting, billboards, lighting of billboards, wind turbines, solar energy, large withdrawals from spring and ground water, clean up items on mineral extraction, and conservation of preserved farmland. Additionally, there were a few updated provisions regarding communication towers. Wording within different sections were also improved. Some of the overlay districts and pipeline set backs were addressed. At this time, there are two outstanding reviews of this drafted ordinance including one

from the Lehigh Valley Planning Commission. A review was given from Ann Hutchinson from Natural Lands Trust which was mostly a positive review that notated a few suggestions to clarify some items further.

Vice Chairman, Robert Simpson, noted that there were a lot of concerns he has with this drafted ordinance. Mr. Simpson stated that he is not in agreement with all of the items, but there are some items that he does agree with. He noted that he is trying to compromise on the matter because not everyone will be in agreement with the ordinance 100%.

Mr. Terry Kleintop added that most of the Environmental Advisory Council (EAC) is in agreement with the drafted ordinance. He noted Timber Harvesting and tree protection was the biggest controversy. There was an ordinance enacted in 2012 which entailed a lot of compromising. This ordinance was truly put to the test in 2015-2016 when issues were raised where property owners with 5 parcels all together had an outcome with tree clearing that was not the intention of the ordinance. The outcome of this was far worse than anticipated. Mr. Kleintop stated that his personal goal is to try and come back from that issue. He noted that the outcome was not the spirit of the EAC or their intentions. Mr. Kleintop wishes for a better future for the Township and the ordinance. He noted that not everyone will be pleased with the ordinance, but it is more responsible.

Ms. Robin Dingle added that anytime an ordinance is to be enacted and enforced, a lot of compromising and decisions are to be made. There is a lot of information within the current drafted ordinance that provides for more clarity and understanding for the residents of Plainfield Township. There ordinance offers more guidance with added definitions for landowners.

Mr. Jeffrey Beavan stated that this ordinance establishes and accomplishes the topic of energy facilities. Mr. Beavan added that although energy facilities are not popular currently, there is a possibility for them in the near future. Within the ordinance, there were a few technical errors that he noticed but the majority of the ordinance seems to be reasonable.

Chairman, Paul Levits, questioned how much the ordinance will affect the property owner's rights. Mr. Kleintop stated that the property rights of the owners is the majority of the issue with this ordinance. Ms. Robin Dingle added that the property owners would now have a more rigorous process that they would need to go through. She stated that it will not be as easy for the owner, but it does not mean that the owner wouldn't be able to do anything. The process is simply changing.

Vice Chairman, Robert Simpson, also questioned what exactly within the ordinance triggers a PINDI inspection. He also questioned what the impact would be on an individual who wishes to take a few trees down versus something more major.

Mr. Jeffrey Beavan noted that there are a few areas that need to be reviewed within the ordinance including tree replacement, level of tree replacements, and what the trigger points are for those replacements. Mr. Beavan does not believe that the ordinance needs

to be reviewed through every single portion of the draft if it has already been heavily debated by the EAC.

Solicitor, David Backenstoe, brought up a concern he had concerning the ordinance and pipelines going into the Township. Specifically, one of the pipelines that are going into the Township is with Penn East Pipeline. Solicitor Backenstoe noted many other municipalities have issues with this because there cannot be a zoning ordinance that is created that does not allow pipelines to be placed in close proximity of structures such as trees, homes, etc. With the current proposed ordinance, Solicitor Backenstoe believes that this draft is the best the Township can get. Solicitor Backenstoe applauded the EA for the creation of this ordinance and approves the intent and process of the ordinance. Although representatives of the Township wish to preserve this area as much as possible, representatives cannot protect the Township the way they wish because of Federal preemption. Additionally, this ordinance cannot protect property owners from having pipelines placed within close proximity to their homes. Ms. Dingle added that when a line is only going through a Township and not state lines, the Township is authorized to have more influence on the placement of the pipeline.

Following the discussion, Chairman, Paul Levits, read over the drafted ordinance which was revised as of March 16, 2018. The drafted ordinance is hereby incorporated for reference in these minutes as though it were more fully set forth at length as "Exhibit A".

On the second page of the drafted ordinance, Chairman, Paul Levits, questioned whether the Township Manager should be the only individual to grant permission to remove any tree growing on or over a public right of way. Mr. Schmehl noted that this will be changed. Mr. Kleintop added that §27-518.4.A.11 is very reasonable. Township Engineer, Mike Kukles, questioned why the terminology "square acre" was being used. Mr. Schmehl responded by stating that "square acre" was used in order to make the measurements easier for the amount of trees that can be removed within that square. Mr. Beavan asked how many trees would be in one wooded acre that are mature. Mr. Kleintop responded by stating that there could be multiple DBH of 8's, 10's, 14's, or 16's within the area. Mr. Simpson told Mr. Beavan that there should be at least 100 trees within the one square acre but that will depend on the type of species that are located within the area. Different species have different DBH at the level of maturity.

On page three (3) of the drafted ordinance, Mr. Kukles questioned why the footage for §27-518.5.A.4 was changed from 50 feet to 100 feet. He noted that 50 feet was already well above what he believes to be fair and that 100 feet is quite high for this specific situation. Mr. Beavan commented on the last sentence of this section and noted that it should state "stormwater facility" instead. With that new definition, there will be more clarity and less confusion with rain gardens and other related items.

A technical error was found in §27-518.5.E which should state "square acre" instead of "individual acre". Within §27-518.7.D, there was a concern about the wording within that section. It stated "largest of its species", however, this can be interpreted in multiple

ways. Although, it was stated by Mr. Schmehl that this was extracted directly from Penn State's database which they maintain.

Section §27-518.7.C and §27-518.7.G are much of the same as stated by Mr. Kukles. This section will be removed for better clarity. Within §27-518.7.K, it was clarified that if trees were to be completely cleared, there would need to be a supplemental productive use in place of the cleared trees. An individual within the Township cannot plant only grass as this is not a productive use. Things such as wheat, corn, and other related uses are permitted.

Chairman, Paul Levits, was questioning whether §27-518.7.U is reasonable and appropriate. Mr. Schmehl stated that the Township is limited on the amount or restrictions that can be in place because of the farmer's time frames for planting from season to season. Mr. Levits understood that they have a short window to plant and harvest their crops, but they have the possibility to start very early in the morning. Mr. Levits expressed concern about the hours for someone to begin cutting down a tree as this could be quite early in the morning as well.

§27-518.8.A references the submission requirements for timber harvesting. Mr. Kukles noted that it should be added that the Timber Harvesting Management Plan shall be approved, denied, or approved with conditions. The conditions aspect was not included in this section and will be included for clarification. Directly following that section, §27-518.8.B articulated requirements of the Timber Harvesting Permit Application. Chairman, Paul Levits, questioned what the difference was from this ordinance to the last ordinance. Mr. Schmehl stated that there were no drastic changes to this ordinance. Ultimately, there now needs to be a submitted application for a permit and justification for the clearcutting. Vice-Chairman, Robert Simpson, added that the permits cannot really be denied either.

It was questioned by Mr. Levits whether every individual will need a proof of insurance. Township Manager, Tom Petrucci, stated that only third party individuals/companies will need proof of insurance. In regards to the right to inspect section, Solicitor Backenstoe added that even if a property owner rejects access to their property, access can still be granted per an Administrative Search Warrant which can normally be obtained within one week. Ms. Dingle questioned if there are any fines that are imposed once the Township is notified of a violation. Mr. Schmehl added that there is a fine which can be up to \$500.00 a day.

§27-518.9.C provides for the attire of Township Officials before entering a property where tree work is being conducted. Township Engineer, Mike Kukles, stated that in regards to what should be worn, it may be more appropriate to make a reference stating "applicable safety requirements" for full attire compliance and safety.

Mr. Charlie Schmehl stated that from Ann Hutchinson's review of the draft, she indicated that she felt as though §27-519.2.A.3 was too permissive. After a thorough review by Mr. Schmehl, he feels that this section is appropriate.

The feasibility of the tree replacement standard was questioned by Mr. Beavan. Commissioner, Robin Dingle, stated that the current standard is feasible because the Township is trying to close a loop hole within the current ordinance. §27-519.2.A.3 articulated the regulation of replacement trees. Mr. Beavan questioned whether the 18 month maintenance period is reasonable for the residents. Ms. Dingle stated that this section is reasonable because if a tree is taken down and replaced which that tree also becomes sickly or dies, a new tree will need to be planted again. Otherwise, this would be a violation. Questionable legal issues were brought up by Mr. Beavan. Further consideration will be made with this section.

§27-514.5 notates flickering and/or strobe lighting is prohibited. Chairman, Paul Levits, questioned what flickering was. Mr. Schmehl stated that flickering takes place when sunlight hits off of the blades on a turbine and the sun reflects off of the blades and “flickers” into homes and other structures. Resident, Don Moore, added that the maximum level of light spillover within the drafted ordinance is still high. Mr. Moore added that although it seems to be dim, 0.1 of a foot candle is not nearly as dim as some may think.

In regards to pipelines within the Township, there were new setbacks assigned for the placement of pipelines. Additionally, it was requested of Mr. Schmehl to add a minimum pipe size to the ordinance. Mr. Schmehl noted that he will take a look at this section and conduct further research as necessary.

Other sections of the ordinance were also discussed in terms of cleaning up the wording to make the content more clear and making a few technical corrections such as grammatical and numerical errors.

Mr. Charlie Schmehl requested that the Planning Commission recommend the drafted ordinance following some minor changes for the Board of Supervisors to review. Chairman, Paul Levits, stated that he does not feel as though the second half of the ordinance was reviewed as thoroughly as the first section. He would like more time to digest the ordinance that has been provided and revisit the issue at the next Planning Commission meeting. Mr. Charlie Schmehl will have a new draft for the Planning Commission members before the next upcoming meeting for further review.

**ACTION: Motion was made by Robert Simpson and Robin Dingle to table this matter to the next available meeting date. *Prior to the vote, Chairman, Paul Levits, asked if there were any comments from the governing body or the public.* Motion approved. Vote 5-0.**

### **ADJOURNMENT:**

Having no further business to come before the Planning Commission, motion was made by Robert Simpson and seconded by Jeff Beavan to adjourn the meeting. Motion approved. Vote 5-0.

The meeting adjourned at 9:52 P.M

Respectfully submitted,

Paige Gerstenberg  
Planning Commission, Secretary  
Plainfield Township