

**PLAINFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
JULY 8, 2020**

The regular meeting of the Plainfield Township Board of Supervisors was held on Wednesday, July 8, 2020 at the Plainfield Township Volunteer Fire Company Outdoor Pavilion located at 6480 Sullivan Trail, Wind Gap, PA 18091.

Chairman, Randy Heard, called the meeting to order at 6:00 P.M.

The Pledge of Allegiance was performed.

ROLL CALL:

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

Also present were Administrative Assistant, Paige Stefanelli, Township Manager, Thomas Petrucci, Township Engineer, Michael Kukles and Solicitor, David Backenstoe. Treasurer, Katelyn Kopach, was excused from the meeting.

I. SECRETARY–THOMAS PETRUCCI:

1. Approval of the June 10, 2020 Regular Meeting Minutes (DRAFT):

ACTION: Motion was made by Chairman, Randy Heard, and seconded by Stephen Hurni to approve the June 10, 2020 Regular Meeting Minutes as presented. Prior to the vote, Chairman, Randy Heard, asked if there were any comments from the governing body or the public. Motion approved. Vote 5-0.

II. TOWNSHIP MANAGER – THOMAS PETRUCCI:

1. Grand Central Sanitary Landfill, Inc./Waste Management Rezoning Request

Waste Management representative, Adrienne Fors, played a video which recapped their intent to expand the Grand Central Sanitary Landfill. The video explained that the Landfill currently has approximately 8 years left of capacity running at the current approved 3,000 tons per day.

Ms. Adrienne Fors turned the discussion to the Board of Supervisors. The Township Board of Supervisors received the Zoning Request from Waste Management along with over 900 pages of documentation in February 2020 for their review. Solicitor, David Backenstoe, explained Grand Central's request that the Board of Supervisors consider the rezoning of 211 acres of land which is currently in the Farm and Forest

Zoning District to a new Solid Waste Zoning District. Solicitor Backenstoe stated that the request is just that and it is very important to understand the matter being discussed is simply a request for rezoning. Solicitor Backenstoe added that at this point in time, the Board of Supervisors are only discussing an amendment request and not a curative amendment or a substantive validity challenge. If it were to be a curative amendment, then it would be very clear on their application. If it was a substantive validity challenge, it would also be very clear because there are certain things that they would need to allege and Solicitor Backenstoe would be providing a very different set of criteria for tonight's discussion.

Under the MPC, §909.1 and §601, adopting a zoning ordinance, amending a zoning ordinance or changing a zoning district is purely a legislative act. The landowners request for rezoning is in fact asking for the Board of Supervisors to take a legislative act. Under the MPC, the Board of Supervisors have exclusive jurisdiction on whether to hear or not hear a landowners request. In other words, you can act on it, but the Board of Supervisors is not obligated to do so. Solicitor Backenstoe continued by stating that multiple cases throughout the years have stated that it is not subject to judicial review. He added that if you do not act on a request, the requestor cannot file an appeal and the judiciary will not review whether you should or should not have amended pursuant to their request because it is strictly under your purview. If the Board of Supervisors wishes to entertain the zoning amendment request and wishes to move forward with the process, then a draft amendment would need to be sent to the Plainfield Township Planning Commission as well as the Lehigh Valley Planning Commission for review and comment. A certain criteria protocol would need to be followed.

Aside from the MPC which is state law, Plainfield Township also has a zoning ordinance which in Solicitor Backenstoe's opinion, closely resembles the MPC. Within the Zoning Ordinance, §27-807 specifically states that this matter is discretionary and is not mandatory. The Board of Supervisors *may* adopt, amend, or modify the zoning ordinance. The Supervisors will decide tonight whether they want to consider this proposal. Under the MPC as well as the Plainfield Township Zoning Ordinance, if the Board of Supervisors consider an amendment, a public hearing will also need to be held before the Board of Supervisors can vote on the matter. Copies of the proposed draft amendment would need to be supplied to the Lehigh Valley Planning Commission. Comments and input from the LVPC would then be the center of the public hearing if the Board wishes to proceed that way. In conclusion, Waste Management's rezoning submission proposal provides no initial duty of the Board of Supervisors. However, if the Board of Supervisors would like to partake in a formal review and would like to consider an amendment which can be prepared and drafted and a public hearing can be scheduled and the matter would first be submitted to the Planning Commission for review and the Lehigh Valley Planning Commission for review. As a footnote, this would be a very different situation if this were to be a

curative amendment or substantive validity challenge but it is not. Solicitor Backenstoe questioned the Board on whether they would like to pursue a zoning amendment change and he added that this is simply a yes or no question. Either the Board wants to consider the proposal and move forward with the process previously discussed, or they do not. No comment is necessary on the matter.

Ms. Jane Mellert stated that in her past service with Plainfield Township and in the review of the information for the creation of the current Solid Waste Zoning District, she thought it was the intent that would be the area that would be the zoned area for Solid Waste. Ms. Mellert did not think it was the intent to entertain then in the future creation of another new Solid Waste Zoning District.

ACTION: Motion was made by Jane Mellert and seconded by Glenn Borger to not entertain the Zoning Amendment request to expand the Solid Waste Zoning District that was submitted by Grand Central Sanitary Landfill, Inc./Waste Management. Prior to the vote, Chairman, Randy Heard, asked if there were any comments from the governing body or the public.

Don Moore- Mr. Moore stated he noticed that Plainfield Township's millage rate was low at 1.52 mills compared with other municipalities in 1994, when he was looking for a place to live. He was not quite sure why the millage rate was so low at the time. Mr. Moore did not realize until after signing the purchase agreement for his property that Plainfield Township had a Landfill. It is 5 miles away, so Mr. Moore assumed that he would not be impacted. At some point, taxes went down even further to 1 mill.

Recently, the Board of Supervisors have been increasing the millage rate for capital improvements and other needs. He mentioned that a municipality must not plan to always have income supplied from the Landfill. He added that the Board of Supervisors made a wise decision in slowly raising taxes in order to compensate for the expected loss. The trust fund may also need to be utilized and questioned himself on how long that may last. If the taxes rise slowly, then the trust fund would be utilized more quickly. Mr. Moore requested that he wants to see the Township plans and what is planned for the future.

Mr. Moore stated that the Board of Supervisors has an obligation to notify residents of how the taxes will be in the coming years. The Landfill is scheduled to soon consume the entire Solid Waste District and noted that the Board of Supervisors should first consider the budgetary impact of a landfill closure in 2028 and model the property tax increases as a function of withdrawals from the Trust Fund. Mr. Moore stressed that a schedule of property tax increases and a measured drawdown of the Trust Fund should be provided to Township residents. Mr. Moore mentioned an alternative option would be for Waste Management to expand in the 50 acres. Waste Management can go back the drawing board and design an expansion

area on the 50 acres currently being used as their Environmental Education Center. Mr. Moore explained that Waste Management can propose to extend the Solid Waste District south (not east) so that it remains bounded by roads and the Recreational Trail. Mr. Moore stated that if we allow Waste Management to travel over roads, then the facility may never end. To Mr. Moore, this seems like a recipe for disaster.

Linda Osborne- Ms. Osborne noted that she has recently done research into health issues relating to Waste Management. She found an article from May 24, 2016 which shows a strong association of excessive sulfide and lung cancer, hospitalizations for respiratory diseases, and even death. She lives 2.1 miles away from the Landfill and is very concerned with the current facility and resident's health. She added that she is opposed to adding another landfill facility in Plainfield Township. Additionally, she stressed that there is a lot more information to find out regarding the trend in health issues in Plainfield Township. The Landfills pose a lot of risk to the community.

Tom Carlo- Mr. Carlo questioned about the process following this public meeting. Solicitor Backenstoe stated that the process beyond this point is dependent on if the Landfill will follow up on the issue. Such options include attempting to appeal the decision. They could also pursue a curative amendment or substantive validity challenge. He added that there is nothing else for the Board of Supervisors to pursue beyond this point. Mr. Carlo stated concerns with future taxes.

Ms. Mellert added that the Landfill area has more land for landfilling than what was originally approved in the Solid Waste Zoning District. In 1988, the Township conducted a study and the entire land area of Plainfield Township was looked at prior to the creation of the Solid Waste Zoning District and it was reviewed what would be considered a fair-share for Solid Waste disposal. She added that the Township has been very diligent on planning for the future and how to fund the Township financially after the Landfill closes. Ms. Mellert noted that the Township cannot rely on the income of one sole business. The area being requested for rezoning was not intended to be an area for another Solid Waste Zoning District.

Linda Wilson- Ms. Wilson stated that Waste Management does not recycle. She has witnessed the drivers taking both cans and putting them into the same garbage disposal truck. She questioned why they are not able to recycle correctly.

Luther Bond- Mr. Bond noted that representatives of the Landfill always state how well they are with their company, but he feels they are truly not operating the facility well. Mr. Bond added that there are over 100 individuals suing against Waste Management in relation to the Landfill operations. He added that there is no reason to expand the facility further when they cannot control what they have already.

John Reinhart- Mr. Reinhart is very concerned with the proposal. He has been a lifelong resident of Pen Argyl Borough. He stated that with the current Landfill, residents do not have a good quality of health living in the area of the Landfill. Since 2002, there have been many instances of health issues with residents. Mr. Reinhart has visited Two Rivers Health and questioned whether they have ever performed any surveys for health related issues of residents in the Slate Belt. To their knowledge, no study took place. He has also contacted Penn State University about studies as well but has not heard back from them. He would like to see numbers of illnesses and diseases of residents in the area of the Landfill versus elsewhere. He added that there is no research right now in our area and stressed this needs to change.

Justin Huratiak- Mr. Huratiak stated that he was recently at Tolino's Vineyard and there were issues there with respect to the smell from the Landfill. He is not in favor of the requested rezoning on behalf of the Landfill.

Tara Zarinski- Ms. Zarinski stated that many residents have come to her for questions regarding health risks and environmental risks of the Landfill. She added that there are other options to discuss when it comes to the Landfill and other ways to dispose of garbage. She noted that this needs to be figured out.

Pat Sutter- Ms. Sutter noted that trucks pass by her home daily. She added that the smell emanating from the Landfill is horrible. She had to drive past the Landfill the other day and could not even breathe in her vehicle. She stressed that each state should take care of their own garbage and that garbage should not cross state lines.

Supervisor, Jane Mellert, stated that in the 1980's, there was no mandatory recycling until 1988 when Act101 was passed. She held a volunteer program for recycling at her home until the state mandated recycling as well as Plainfield Township. She urged residents to write in to State Legislators regarding the issue.

Linda Osborne- Ms. Osborne stated that if we do not demand packaging the way it is, Waste Management will not supply it. She noted that if we stop demanding it, Waste Management will stop the supply. She also mentioned that taxes are bound to rise regardless if the Landfill closes.

Jerry Lennon- Mr. Lennon questioned how long the pipe would be on the new property for gasses. Ms. Fors noted that the pipe would be 500 feet long. He noted this would be a disaster as this would be highly explosive. Mr. Lennon has many concerns about the Landfill.

Bob Michler- Mr. Michler questioned Solicitor Backenstoe on whether Waste Management has other options of pursuing a zoning amendment. Solicitor Backenstoe stated that Waste Management's legal counsel is under the assumption

that the zoning amendment request would first need to be reviewed by the Planning Commission which should then be forwarded to the Board of Supervisors. Solicitor Backenstoe does not agree with this process and added that the Township Zoning Ordinance is quite clear and also mirrors the MPC. Based on a decision tonight, the landowner may file an appeal if they felt necessary, however, it is Solicitor Backenstoe's understanding that the Court will not review an issue that is simply legislative. Solicitor Backenstoe added that this issue is likely not reviewable by the Courts. Grand Central/Waste Management, LLC could also pursue a validity challenge or curative amendment.

Andrew Medellin- Mr. Medellin stated he is against the expansion being so close to Pen Argyl. He stated that he has made numerous complaints with the EPA and other entities. However, the EPA is a waste a time as they do not come out to inspect the problem area until days after the complaint is made. He noted the smell is horrible. There is also garbage along the property lines as well which are not cleaned up regularly. He added that he used to be a police officer for Pen Argyl and that many of the garbage trucks would be over the maximum capacity weight. He noted they were often cited for having trucks over the maximum allowed weight.

Chairman, Randy Heard, stated that the Township would be betraying residents trust if they go forth with the expansion, especially with the Open Space Earned Income Tax (EIT) referendum that was adopted by Plainfield Township residents in 2007 (60% of Plainfield Township residents approved the measure to impose an additional Open Space EIT).

Jane Mellert requested that Solicitor David Backenstoe clarify the motion. Solicitor Backenstoe's understanding is that Jane's motion was the Board of Supervisors do not further pursue the request for a Zoning change of Grand Central. Solicitor Backenstoe added that there was a motion and a second on that motion. Discussion was made from the Board as well as the public. Seeing no more discussion on the floor, the final vote was called.

Motion approved. Vote 3-0-2 with Joyce Lambert and Stephen Hurni abstaining.

BOARD OF SUPERVISORS REPORTS:

1. *Glenn Borger, Vice Chairman*- No Report
2. *Joyce Lambert*- No Report
3. *Jane Mellert*- Ms. Mellert thanked everyone for coming to the meeting tonight.

4. *Stephen Hurni*- No Report

5. *Randy Heard, Chairman*- No Report

SOLICITOR'S REPORT- DAVID BACKENSTOE, ESQUIRE:

All of the Solicitor's comments were addressed earlier in the meeting.

ADJOURNMENT:

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

The meeting adjourned at 6:52 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.