

**PLAINFIELD TOWNSHIP
ENVIRONMENTAL ADVISORY COUNCIL MEETING
AUGUST 2, 2021**

The regular monthly meeting of the Plainfield Township Environmental Advisory Council was held on **Monday, August 2, 2021** at the Plainfield Township Municipal Building, which is located at 6292 Sullivan Trail, Nazareth, PA 18064.

Chairman, Bob Cornman, called the meeting to order at 7:00 P.M.

ROLL CALL:

The following members of the Environmental Advisory Council answered roll call: Chairman Robert Cornman, Vice-Chairman Bob Simpson, Jane Mellert and Bruce Rabenold.

Stan Shelosky and Jeff Beavan were excused from attending the meeting.

Also present was Township Manager/Secretary to the Environmental Advisory Council, who is Tom Petrucci, and Charlie Schmehl, who is the Vice President of Urban Research and Development Corporation (URDC).

PUBLIC ATTENDANCE:

Stephen Hurni, who is a member of the Board of Supervisors, was in attendance.

I. APPROVAL OF THE MINUTES – May 2, 2021 Draft Meeting Minutes

ACTION: Bob Simpson made a motion to approve the May 2, 2021 Draft EAC Meeting Minutes, as submitted. The motion was seconded by Bruce Rabenold.

Prior to the vote, Bob Cornman called for any questions or comments from members of the public or the EAC.

The motion was approved. Vote 4-0.

II. MEETING BUSINESS:

1. Clean Fill Regulations Ordinance

Mr. Charlie Schmehl provided an overview of proposed Clean Fill Regulations to the members of the Environmental Advisory Council. It was noted that a complete work product must be finished by the end of September. The Lehigh Valley Greenways grant partially funding this project expires on October 31, 2021.

The summary of the discussion between the EAC members and Mr. Schmehl is summarized as follows:

- Maps were prepared and distributed which identify all abandoned and active quarries in the Township, as well as adjoining municipalities. Historical data, topographic maps, and data compiled by University of Penn student were consulted in identifying these locations.
- It was identified that it would be prudent to have some of the abandoned quarries in the Township returned to productive land uses in order to create tax revenue; however, the concern with doing so is the influx of possibly harmful fill materials injected directly into the water table (especially where abandoned quarries have a direct nexus with groundwater sources). Pennsylvania's clean fill regulations were traditionally less stringent than New York's and New Jersey's (notably-acceptable PCB levels), and fill from those locales was being distributed in Pennsylvania on a regular basis with little oversight. The Commonwealth strengthened its clean fill regulations in January of 2021 in response to these recurring instances.
- Aside from PCB levels, Bob Simpson stated that there are also issues with sodium and metals that leach out of the soils. There are separate standards for residential and commercial uses. The question was posed whether the Township could impose stricter requirements than the Commonwealth, and it was identified that the Township generally cannot regulate operational matters that are already specifically regulated by the Commonwealth. The Township can help enforce Commonwealth standards (for example, additional testing to confirm compliance with Commonwealth standards).
- The Township is striving for an equitable regulatory balance. The intent is not to restrict clean fill activities to the point where it comes impossible to conduct necessary improvements- but to ensure that groundwater is protected.
- The Township could incorporate Commonwealth standards, which are updated on a regular basis, as opposed to the Township attempting to compile its own standards. The Township can devise testing protocols (ex. what is tested, the frequency of testing, etc.).
- Bob Cornman stated that it would be helpful to review New York's and New Jersey's mandated clean fill levels against Pennsylvania's in order to identify significant differences.
- Bob Simpson stated that the direct connection to groundwater can change the aquifer- specifically giving the example of another municipality's salt storage

facility leeching into the groundwater, thereby causing problems for adjacent landowners, who were required to conduct additional testing and install solutions to improve water quality in their homes. These types of issues are what provide the justification for the need for additional testing.

- The Township can require hydrogeological studies to confirm compliance with Commonwealth standards.
- In addition to fill materials being placed in quarries, the Township is concerned with the levels of contaminants being placed in residential areas (where residents would ostensibly have direct contact with soils).
- URDC cannot provide direct legal advice. As noted elsewhere, the Township cannot implement more restrictive regulations regarding operational matters (ex. berms around a quarry or water levels in a quarry).
- Of the Commonwealth list of standards, it was discussed whether or not the Township should adopt the standards (and list of contaminants) verbatim or attempt to parse them out for areas of specific concern. The Township should determine what is reasonable for this area, but it will most likely be all standards. The Commonwealth standards require testing on a site-by-site basis for the suspected contaminants. For example, an industrial site would be required to test for industrial pollutants. A Commonwealth form must be completed by the owner/operator and submitted to the Department of Environmental Protection.
- The Township will need to develop its own internal forms to reconcile the materials that are being taken into the Township to be used as clean fill. The regulations should focus on fill materials that are emanating from outside of the Township. Bob Simpson stated that utilization of fill on-site should be permitted (as long as no external fill is brought into the Township). It was also noted that agricultural properties proposed for residential subdivisions should consider the historical usage of herbicides and pesticides (ex. arsenic in apple orchards). A typical remedy is to put a layer of clean material on top of the contaminated soil. This creates additional challenges/costs to developers.
- Jane Mellert noted that it will be very difficult to find clean fill on any properties due to past practices (including agricultural operations and commercial-grade herbicides/pesticides, earthmoving activities, and increased development activities). It was noted that normal household use of herbicides (i.e. Roundup) is not typically regulated.
- The Commonwealth standards are now contained in the “Management of Fill Policy”. If the applicant fills out a form that states that the applicant has

completed their own level of due diligence and is self-certifying that there are no contaminants in a given source of fill materials, the Commonwealth/PA DEP does not conduct follow-up activities.

- The Township should adopt provisions that are reasonably able to be administered by Township staff and/or an independent outside agency/laboratory. It was suggested that developers should conduct and pay for the relevant testing and have a certified/registered professional sign off on the sampling/testing. It was noted that independent laboratory results must be presented accurately, or the employees/officials signing the certifications could potentially face prison time.
- Township regulations can bridge the gap between the complex Commonwealth regulations and the lack of resources in the field to conduct enforcement activities.
- Stephen Hurni inquired if the developer is utilizing federally insured funds, is an environmental study required to be conducted for liability purposes? It was discussed that this indeed is typically a requirement for the receipt of federal funds- especially due to the fact that there are environmental laws which hold landowners responsible for contamination of lands in perpetuity.
- The main vehicle for administering clean fill regulations should be the Zoning Ordinance. All regulations must be consistent with stormwater management regulations and floodplain/water quality ordinances.
- The draft clean fill regulations as drafted by Charlie Schmehl were reviewed by the EAC.
 - It was noted that the capacity of a tri-axle is approximately 22 tons. The original draft of the ordinance would require the Township to regulate fill activities over 150 tons. It was suggested that the threshold should be revised to 500 tons (and this amount should be site-specific).
 - It was noted that water quality testing should be required after the fill activities have occurred. A hydrogeological study should also occur before the fill activities have commenced. The owner/operator should also offer to test nearby wells for contamination, although this cannot be mandated by the Township.
 - If contamination is discovered while the clean fill moving activities are occurring, the clean fill activities should cease until such time that the issues causing the contamination are remediated.

- It was stated that if the owner/operator becomes aware of an authorized release of groundwater or surface water contaminants, the 911 Center must be contacted. The ordinance should be revised to also require notification to the PA DEP regional office.

It was resolved to hold the next Environmental Advisory Council on Thursday, September 2, 2021 at 7:00 PM instead of the originally scheduled date of Monday, September 13, 2021 at 7:00 PM. The public notice will be advertised. Charlie Schmehl will bring revised regulations for the consideration of the EAC members. It was identified that time is of the essence when developing these regulations due to the deadline of the Lehigh Valley Greenways grant that is helping to fund this project. The stated intent for this project is to garner public input prior to moving forward with the adoption process that is set forth in the Municipalities Planning Code. A future EAC meeting will invite members of the public to attend to discuss the draft ordinance (prior to the adoption of the ordinance).

2. Open Space Plan Amendment (DRAFT) – Recommendation to Board of Supervisors

Tom Petrucci had prepared a revised draft of the Open Space Plan Amendment dated August 3, 2021. Bob Cornman and Jane Mellert provided comments as follows:

- The Executive Summary should be expanded upon to clearly set forth the intent of the Amendment due to the length of the overall document. The Executive Summary should include all key components of the Amendment.
- Under the farmette section, the required minimum acreage should be confirmed with the Northampton County Farmland Preservation Board. It was noted that if 90% of the property must be preserved that this may not be consistent with the Clean and Green favorable assessment program.

ACTION: Bob Cornman made a motion to recommend that the Board of Supervisors move forward with the adoption process for the proposed Open Space Plan Amendment- specifically, the “Additional Ways to Preserve Open Space” DRAFT dated August 3, 2021- after incorporating the comments of Bob Cornman and Jane Mellert. The motion was seconded by Bob Simpson.

Prior to the vote, Bob Cornman called for any questions or comments from members of the public or the EAC.

The motion was approved. Vote 4-0.

III. CITIZEN'S AGENDA/NON-AGENDA *(There is a 5-minute time limit for speakers. Please state your name prior to addressing the Environmental Advisory Council)**

Mr. Stephen Hurni directly participated in the discussion concerning the Clean Fill Regulations. He also inquired as to whether organic farms have contaminants present. It was stated that all farms use some level of contaminants- even organic farms.

Prior to adjournment, Bob Cornman thanked Bob Simpson for his insight and experience that he provided concerning the clean fill regulations.

IV. ADJOURNMENT:

Having no further business to come before the Environmental Advisory Council, motion was made by Bob Simpson and seconded by Bruce Rabenold to adjourn the meeting. Motion approved. Vote 4-0.

The meeting adjourned at 8:56 P.M.

Respectfully submitted,

Thomas Petrucci
Township Manager/Secretary
Plainfield Township