

**SPRINGETTSBURY TOWNSHIP
REGULAR MEETING**

**OCTOBER 22, 2015
APPROVED**

The Springettsbury Township Board of Supervisors held a Regular Meeting on Thursday, October 22, 2015 at 7:00 p.m. at the offices of Springettsbury Township located at 1501 Mt. Zion Road, York, PA.

MEMBERS IN

ATTENDANCE: Mark Swomley, Chairman
George Dvoryak
Kathleen Phan

MEMBERS NOT

IN ATTENDANCE: Julie Landis
Bill Schenck

ALSO IN

ATTENDANCE: Kristen Denne, Township Manager
Charles Rausch, Solicitor
John Luciani, Civil Engineer
Jean Abreght, Stenographer

1. CALL TO ORDER

A. Opening Ceremony

SWOMLEY Chairman Swomley called the Regular Board of Supervisors meeting to order. He led the Pledge Allegiance to the flag.

2. ANNOUNCEMENT OF EXECUTIVE SESSIONS

SWOMLEY Chairman Swomley announced that there had been no Executive Sessions since the last regularly scheduled meeting and none had been scheduled for this date.

3. COMMUNICATION FROM CITIZENS

HERNANDEZ David Hernandez, 1843 Wallace Street, stated his opposition to the Spring Lane LLC project. He noted the considerable dollars spent recently to improve the intersection.

FITZPATRICK Bill Fitzpatrick, 410 Quaker in Hellam Borough asked what criteria the board would use to decide on whether to rezone or not.

RAUSCH Solicitor Rausch responded that it is a legislative process. He listed some of the criteria the board would use: best interest of the community, existing conditions, future direction of zoning, Springettsbury Planning Commission, as well as York

**SPRINGETTSBURY TOWNSHIP
REGULAR MEETING**

**OCTOBER 22, 2015
APPROVED**

County Planning Commission recommendations, Comprehensive Plan, zoning ordinance, and public comments. Following a review of criteria, the five elected board members determine the outcome.

FITZPATRICK Mr. Fitzpatrick questioned whether a Petition would have any impact on the final outcome.

SWOMLEY Chairman Swomley responded that he would consider the best interest of the township and the adjacent residents. He would consider the traffic issues, tax revenue for the township, all legal implications and a review of ordinances.

RAUSCH Solicitor Rausch noted with regard to Petitions, it would depend on the question that is asked, such as, "Do you want a supermarket firing foreign pregnant women in the township?" Holding Public Hearings and hearing from the residents, including with letters provides an important value to the board.

WALTEMYER Brad Waltemyer, 59 Mt. Zion Road, noted that there are five supervisors and Ms. Landis was the only one who voted against it.

RAUSCH Solicitor Rausch noted that Ms. Landis had not voted against it, as there had been no vote taken by the board.

PHAN Ms. Phan commented that the vote that was taken was simply to allow the developer to move forward to show the board more information.

WALTEMYER Mr. Waltemyer asked whether her vote would weigh in the final decision.

RAUSCH Solicitor Rausch responded that if a vote is taken, the board member must be present to vote. If a vote were to be taken this date, three members constitute a Quorum and the decision would be final.

VANDINE Regan VanDine, 3323 East Market Street questioned whether the board might want to deliberate further on the comments from the Public Hearing prior to taking a vote. She had been upset to learn that the vote might be taken this date.

RAUSCH Solicitor Rausch noted for the record, that it is part of the requirements that a notice be published in the paper. The notice clearly states that the board may adopt following the Public Hearing.

HELLER Jane Heller, 1819 Idylwyld Drive, asked for a show of hands of those in attendance who are opposed to the project.

SWOMLEY Chairman Swomley asked what her question was.

**SPRINGETTSBURY TOWNSHIP
REGULAR MEETING**

**OCTOBER 22, 2015
APPROVED**

- HELLER** Ms. Heller responded she just wanted the board to see how many people are opposed.
- CARAMONTE** Carrie Caramonte, 350 S. Vernon Street questioned what else could take place at the location if the board were to approve the rezoning.
- RAUSCH** Solicitor Rausch responded that the 12 parcels would be re-zoned Commercial Highway with a Town Center Overlay. The requirements for those zoning districts would be applied.
- CARAMONTE** Ms. Caramonte commented that any development would have to be a Town Center.
- RAUSCH** Solicitor Rausch responded that she was correct. However, in this instance the Town Center Overlay has its own set of restrictions.
- LUCIANI** Mr. Luciani commented that a convenience store is prohibited at that location.
- SWOMLEY** Chairman Swomley added that the Town Center Overlay requires a full Comprehensive Plan for the entire parcel and not just for building individual pieces.
- SMITH** Steve Smith, 3638 Pleasant Valley Road asked Solicitor Rausch to explain spot zoning.
- RAUSCH** Solicitor Rausch responded that he would address those legal questions with the board. He noted that spot zoning is done only on a case-by-case basis and it is not an easy question to answer.
- BOWMAN** Matt Bowman, 860 Woodridge Road, noted that he is with the insurance company located at the corner across from the Modernaire Motel. His concern is with the intersection. He questioned whether any consideration had been given to a No Turn on Red at that location to prevent cars from making left-hand turns in front of traffic going east and west on Market Street.
- LUCIANI** Mr. Luciani stated that a Traffic Safety Committee meeting takes place with the fire department, the Township Manager, a Zoning Officer, etc. If there are enough accidents to warrant that prohibition the Traffic Safety group would review it.
- BOWMAN** Mr. Bowman reiterated it would be left turns going across Market Street; cars either on Edgewood Road or at Mt. Zion Road.
- LUCIANI** Mr. Luciani commented that it would alter the traffic patterns; however, it could be done if warranted. He added that if the development goes through, they would

**SPRINGETTSBURY TOWNSHIP
REGULAR MEETING**

**OCTOBER 22, 2015
APPROVED**

have to submit a traffic analysis and traffic accident history. There must be five reportable accidents, with injuries, in a calendar year. He asked Mr. Bowman if he thought that would be the case.

BOWMAN Mr. Bowman responded that it would be easily documented.

LUCIANI Mr. Luciani stated they could easily look at the safety of that intersection. He noted that PennDOT is reviewing some signal coordination changes on that corridor. He will bring it up at the Traffic Safety meeting.

BOWMAN Mr. Bowman thanked him.

SWOMLEY Chairman Swomley noted that the majority of residents present were interested in the Mt. Zion Road/Market Street intersection. The board could consider moving the agenda item vote on amending the zoning map up prior to the Engineering Reports. He stated that, unfortunately, Supervisor Schenck had been called away on business and could not be present this date. He was not certain as to why Supervisor Landis could not be present; however, he personally thought that the board needed to take some time and deliberate on the testimony. He looked to the other Supervisors as to their thoughts to put the item on either the November or December board meeting agendas, which would still be within the 60-day window.

RAUSCH Solicitor Rausch indicated that once the ordinance is advertised from the last advertisement date, which was October the 12th, the board would have 60 days or would need to re-advertise that ordinance again before a vote could be taken. He recommended, if the board needed to deliberate further, to table the item to the November meeting. It could be tabled further if additional time is needed to the December 10th meeting, which would still be within the 60 days.

DVORYAK Mr. Dvoryak commented that he recognized and appreciated all the residents who took time to attend the Public Hearing and present their concerns. Personally he had several legal questions to discuss. He, too, would recommend that the board defer a vote on the issue until November in order to fully deliberate and reach a conclusion with all the information and testimony from the Public Hearing. In addition, it would be helpful to have the other two board members present in order that the vote be given full consideration.

MS. PHAN MOVED TO TABLE THE DISCUSSION FOR THE REZONING TO THE NOVEMBER MEETING. MOTION UNANIMOUSLY CARRIED.

DVORYAK Mr. Dvoryak presented several legal questions to Solicitor Rausch. For his own understanding as it pertained to rezoning requests in general, what legal issues

could the board have based on its decision. He mentioned spot zoning, which the board knows is a risk.

RAUSCH Solicitor Rausch responded there are very few because it is a legislative act and the courts generally will not interfere with a local decision whether or not the residents agree. He mentioned and explained two areas of risk: (1) spot zoning, (2) contract zoning.

DVORYAK Mr. Dvoryak noted a comment referring to the York County Planning Commission that this particular project could appear as a spot zoning situation. There was no supporting comment other than it would create an island of Commercial Highway surrounded by Neighborhood Commercial. He asked Solicitor Rausch to expand on their comment.

RAUSCH Solicitor Rausch responded with a number of points, summarized:

- Focus on the island part is a trigger for spot zoning. A particular parcel of property could either benefit or not. The board could vote either way, which is prohibited.
- Focus must be whether there is a justifiable reason for the zoning.
- Determine if it is a benefit for the community; review by Planning Commission and of the Comprehensive Plan.
- Specific review of individual parcels and surrounding area, such as a residence surrounded by commercial property and vice-versa.
- Consideration of the size of the property and surrounding areas. High residential use, apartments, multi-use properties included in a decision.

DVORYAK Mr. Dvoryak thanked him for the information.

RAUSCH Solicitor Rausch commented that Steve Smith got his answer on spot zoning, as the question had come from a board member.

4. ENGINEERING REPORTS

A. Environmental Engineer – Buchart Horn, Inc.

BAKNER Mr. Brent Bakner stated that Mr. Crabill was unable to be present this date; however, he had provided his written report. Mr. Bakner asked if there were any questions. There were none.

B. Civil Engineer – First Capital Engineering, Inc.

LUCIANI Mr. Luciani had provided a written monthly report. He had several updates.

- Graham Street culvert will be finalized on Tuesday, October 27, 2015.

**SPRINGETTSBURY TOWNSHIP
REGULAR MEETING**

**OCTOBER 22, 2015
APPROVED**

- Regarding the Zoning Hearing Board case on the towing operation proposed on Graham Street, they were to return for the November 5th Zoning Hearing Board meeting; however, the applicant had a conflict. That case was held to December 3rd.

RAUSCH Solicitor Rausch asked about the November applicant, who had asked to hold his case until December.

LUCIANI Mr. Luciani responded that the applicant who requested permission to build a basement entryway on Mt. Zion Road also was held until the December 3rd meeting.

5. CONSENT AGENDA

- A. Acknowledge Receipt of September 30, 2015 Treasurer's Report
- B. Acknowledge Receipt of August 18, 2015 York Area United Fire and Rescue Commission Meeting Minutes.
- C. Board of Supervisors Public Hearing Minutes – October 8, 2015
- D. Regular Payables as Detailed in Payable Listing of October 22, 2015
- E. LD-14-04 – Time Extension – Pleasant Valley Road Tract – Plan Expires 11/30/15 (New Plan Date 1/31/16)
- F. Authorization to Approve Tax Refund Request for Tax Year 2013 – 2801 East Market Street (Parcel #46-KJ-1P) in the amount of \$2,581.45
- G. Authorization to Approve Tax Refund Request for Tax Year 2014 – 2801 East Market Street (Parcel #46-KJ-1P) in the amount of \$2,644.12.
- H. Authorization to Approve Tax Refund Request for Tax Year 2015 – 2801 East Market Street (Parcel #46-KJ-1P) in the amount of \$2,607.27.

MR. DVORYAK MOVED TO APPROVE CONSENT AGENDA ITEMS A THROUGH H. MOTION UNANIMOUSLY CARRIED.

6. BIDS, PROPOSALS, CONTRACTS, AND AGREEMENTS

- A. Authorization to Enter into 2016 Agreement with Allegiant Animal Care for Animal Control Services

MR. DVORYAK MOVED TO AUTHORIZE TO ENTER INTO THE 2016 AGREEMENT WITH ALLEGIANT. MOTION UNANIMOUSLY CARRIED.

7. SUBDIVISIONS AND LAND DEVELOPMENT

There were none for discussion

8. COMMUNICATION FROM SUPERVISORS

PHAN Ms. Phan congratulated Mr. Hodgkinson for the work done in going above and beyond on the Winterberry lights that were out. In addition, she appreciated what Manager Denne had done to step in and take a resident's call and resolve the issue quickly. She thanked her for all that she does.

9. SOLICITOR'S REPORT

RAUSCH Solicitor Rausch requested the board authorize Mr. Luciani to do a traffic study to determine if tow-away signs would be warranted for removal from a flood zone on Graham Street.

SWOMLEY Chairman Swomley questioned what Solicitor Rausch's recommendation would be as to a time period to wait before removing the vehicles after erecting the signs.

RAUSCH Solicitor Rausch responded that the owner already had been served notice to remove them by the end of the month. They are in a township right-of-way.

**MR. DVORYAK MOVED TO MOVE FORWARD WITH THE TRAFFIC STUDY.
MOTION UNANIMOUSLY CARRIED.**

SWOMLEY Chairman Swomley brought forward the Beaverson Interceptor Project and a request of the township to acquire 10 acres of land adjacent to the north side of Eastern Boulevard.

RAUSCH Solicitor Rausch responded that he had a request from the homeowners association. The area is wetlands located east of Eastern Boulevard Extended, crossing over Locust Grove Road.

SWOMLEY Chairman Swomley asked what use there would be for this land.

LUCIANI Mr. Luciani responded that there are some plans in that area, and Mr. Crabill would use it for sewer right-of-way.

RAUSCH Solicitor Rausch agreed that a certain portion of it would be used for sewer right-of-way, but in addition, Mr. Crabill thought it might be helpful for MS4 to have wetlands.

LUCIANI Mr. Luciani stated that there are some wetland projects, or Best Management Practices (BMP) where the township could put in a buffer with some potential benefits. He noted he wouldn't want to have to maintain the area with mowing or having a weed problem. He had not reviewed it thoroughly but he had enough documentation to create a legal description that could be transferred from the HOA to the township.

**SPRINGETTSBURY TOWNSHIP
REGULAR MEETING**

**OCTOBER 22, 2015
APPROVED**

RAUSCH Solicitor Rausch added that it was offered at no cost. If the board had no interest he would just respond in that way. If there is interest he would take the next step and pull it together for further review.

SWOMLEY Chairman Swomley asked that the due diligence be done on the property, and recommendations be presented at the next meeting.

LUCIANI Mr. Luciani noted he could have pictures and a brief report with a legal description of the acreage and zoning.

DVORYAK Mr. Dvoryak commented that it should include the cost of maintenance.

SWOMLEY Chairman Swomley extended kudos to Solicitor Rausch on getting the Long Drive property settled.

RAUSCH Solicitor Rausch responded that it had been a long drawn-out affair, but it's over. However, the next one to be finalized will be the Leonard Thompson property on Wallace Street. The house was demolished, and the township has a lien on the property. It is the next one to be on the market. It must be executed first, and then it will be for sale. It is a vacant lot.

10. MANAGER'S REPORT

DENNE Ms. Denne noted she had added some information on the Darrah matter to her report. In addition, the Finance Director completed an RFP for auditor services. She requested a motion to advertise for the auditing services for 2016.

**MS. PHAN MOVED TO ADVERTISE FOR AUDITING SERVICES FOR 2016.
MOTION UNANIMOUSLY CARRIED.**

DENNE Ms. Denne stated that an Ordinance, 13A for Flood Plain Overlay Regulations, must be passed by December as a requirement of the state. The requirement is through PEMA and FEMA.

SWOMLEY Chairman Swomley noted it had been sent to the York County Planning Commission.

DENNE Ms. Denne noted they would be voting on it Monday, October 26th.

LUCIANI Mr. Luciani added that he had spoken with Mike Schaffer, who is the reviewer, regarding some of the issues. His opinion was that everything looked good.

SWOMLEY Chairman Swomley commented that the Local Government Advisory Council reviewed it as well, and representatives of York County Planning were there.

They thought very highly of the work that had been done on that plan.
Springettsbury was the first in the county to turn it in.

DVORYAK Mr. Dvoryak asked Ms. Denne about the vacancy in Community Development and her plans to fill it.

DENNE Ms. Denne responded that she is reviewing the job description at this time. She stated that, for the interim period, she would fill the position with a full-time Zoning Officer/Construction Coordinator, and re-evaluate in January what the true needs are for the position.

SWOMLEY Chairman Swomley suggested that with the number of vacant properties that had been outlined this date by the residents of the community, that there is a lot of work to do in Community Development.

11. ORDINANCES AND RESOLUTIONS

A. Ordinance 2015-10 – Amending Code of Ordinances Chapter 319, “Water,” Article II, “Connection to System in Mundis Mill Water District” to Clarify what Fees and Charges will be assessed for Connection to the Water System

MR. DVORYAK MOVED TO ADOPT THE ORDINANCE AMENDING THE CODE OF ORDINANCES CHAPTER 319 AS OUTLINED IN OUR AGENDA. MOTION UNANIMOUSLY CARRIED.

B. Ordinance No. 2015-11 – Amending Zoning Map by Rezoning Twelve Tracts of Land from N-C, Neighborhood Commercial to C-H, Commercial Highway and to Adopt Town Center Overlay for Said Parcels.

This item was tabled for the November Board of Supervisors meeting.

C. Resolution No. 2015-50 – In Support of Requesting the Reevaluation of the Foreign Fire Insurance Tax Distribution Calculation that was passed as part of Act 2015 of 1984.

MR. DVORYAK MOVED FOR THE APPROVAL OF RESOLUTION 2015-50. MOTION UNANIMOUSLY CARRIED.

D. Resolution 2015-51 – Designating Zoning Officer and Deputy Zoning Officer

MS. PHAN MOVED TO APPROVE RESOLUTION 2015-51 TO DESIGNATE ZONING OFFICER AND DEPUTY. MOTION UNANIMOUSLY CARRIED.

E. Resolution 2015-52 – Designating Township Building Official

MS. PHAN MOVED TO APPROVE RESOLUTION 2015-52 FOR DESIGNATING BUILDING OFFICIAL. MOTION UNANIMOUSLY CARRIED.

12. OLD BUSINESS

PHAN Ms. Phan brought forward the vacancy in the Historic Preservation Committee. She did not see an item on the agenda but wanted to discuss it so they could move forward with the openings.

DENNE Ms. Denne responded that there would be an application interview for those positions.

SWOMLEY Chairman Swomley requested that some dates be scheduled for a 15-minute interview prior to one of the board meetings.

PHAN Ms. Phan requested that it be scheduled for the next meeting to help them move forward.

DENNE Ms. Denne responded that she would schedule some time.

13. NEW BUSINESS

A. Authorization to Advertise Ordinance for Proposed Revisions to Chapter 325, Article XVIII – Floodplain Overlay Regulations

MR. DVORYAK MOVED TO AUTHORIZE ADVERTISING THE ORDINANCE FOR THE PROPOSED REVISIONS TO THE FLOODPLAIN OVERLAY. MOTION UNANIMOUSLY CARRIED.

14. ADJOURNMENT

SWOMLEY Chairman Swomley adjourned the meeting at 8:10 p.m.

Respectfully submitted,

Doreen K. Bowders
Secretary

ja