

**SPRINGETTSBURY TOWNSHIP
PUBLIC HEARING**

**JULY 26, 2018
APPROVED**

The Springettsbury Township Board of Supervisors held a Public Hearing on Thursday, July 26, 2018 at 6:00 p.m. at the offices of Springettsbury Township located at 1501 Mt. Zion Road, York, PA.

MEMBERS IN

ATTENDANCE: Mark Swomley, Chairman
George Dvoryak, Vice Chairman
Kathleen Phan, Assistant Secretary/Treasurer
Charles Wurster
Blanda Nace

ALSO IN

ATTENDANCE: Charles Rausch, Solicitor
Dori Bowders, Manager of Administrative Operations
Teresa Hummel, Finance Director
Jessica Fieldhouse, Director of Community Development
Andy Hinkle, Manager, Information Systems
Lt. Tony Beam, Police Department
Jean Abreght, Stenographer

1. CALL TO ORDER

Chairman Swomley welcomed everyone to the public hearing.

2. NEW BUSINESS

- A. Proposed Ordinance to Add Amendments to the Zoning Ordinance Regarding Standards for Casino and Gambling Facilities, Off-Track Betting and Pawn Shops
- B. Proposed Ordinance to Revise the Town Center Overlay Standards Regarding Improving and/or Reusing Existing Enclosed Shopping Malls
- C. Proposed Ordinance to Rezone the Following Parcels to Include the Town Center Overlay (Base Zoning District of Commercial Highway will not be Modified)
 - 1) Parcel No. 46000KJ00010000000 – York Galleria LP, Attn: CBL Center – 2899 Whiteford Road
 - 2) Parcel No. 46000KJ0001P000000 – BT York PA Business Trust, Attn: Bon Ton Stores, Inc. – 2899 Whiteford Road
 - 3) Parcel No. 46000KJ0001Q000000 – Pax Mall Realty Company, LP – 2899 Whiteford Road

Chairman Swomley stated Proposed Ordinance A is a change the standards to identify and define gaming facilities, off track betting and pawn shops, which are not currently addressed in the zoning ordinance.

Proposed Ordinance B is to revise the town center overlay standards regarding improving enclosed shopping malls.

Proposed Ordinance C is to rezone free parcels into town center overlay, which would govern how redevelopment of that area would occur.

Chairman Swomley further noted B and C will address potential improvements for the mall anticipated in the future by the developer, whether there is a casino, hotels, restaurants or other facilities envisioned for that area. This will allow control of the development and includes enhanced walking facilities and amenities around the property.

Chairman Swomley stated after addressing the proposed ordinances the floor will be opened for public comment. He noted there will be no action at this meeting. The ordinances will be an agenda item at the regularly scheduled Board of Supervisors meeting.

Solicitor Rausch clarified this is in regard to the casino. He indicated in December of 2017, the Board adopted a resolution to opt out of the casino. He explained under state legislation, municipalities could opt out or opt in to have a category 4 casino, termed as a mini casino which is limited in the number of slot machines and table games. The legislation also says a municipality that opted out could opt back in, however, once they opted back in they could not change it again. Solicitor Rausch noted in February the Board adopted the resolution to opt in to allow a category 4 casino in the township. Because of that, it has become necessary to adopt these regulations to control where it would be placed, as well as address aesthetics, environmental and traffic issues. In conjunction the proposal would be to place the Galleria Mall in the town center overlay which would necessitate additional requirements.

Ms. Fieldhouse provided a review of the background of the ordinances and what they are proposing. To clarify, she explained a category 4 mini casino was newly legislated by the Pennsylvania Commonwealth in October of 2017. A mini casino allows for 30 to 40 gaming tables and between 300 and 750 slot machines. She explained the three ordinances being presented this evening, noting the first is a zoning map amendment and the other two are proposed text amendments. She identified the areas that are currently within the Town center overlay:

- Mt. Rose interchange at Rt. 83
- Market Street bounded by Eastern Boulevard and Concord Road
- The town center area newly created at the intersection of Mt. Zion and East Market Street.

She noted the first ordinance is a proposal is to place the three parcels which make up the York Galleria Mall, parcel 1, parcel 1P and 1Q within the town center overlay, to help structure redevelopment as would benefit the township. She indicated the town center overlay provides for design and aesthetic guidance, placement of buildings, the amount of parking, where parking can be located, vegetative buffers and parking lot landscaping. The goal is to make the York Galleria very accessible to residents who live in the area. The base zoning will remain Commercial-Highway.

Ms. Fieldhouse stated the second ordinance on the agenda is a text amendment to create legislation to responsibly regulate casino and gambling facilities. The ordinance will define what a casino and a gambling facility is and the language that goes along with a casino, such as gambling devices, illegal gambling devices, off track betting, and specifically the definition of a pawn shop. The legislation is proposing to allow casinos and gambling facilities as a conditional use in the commercial highway zoning district. It will identify the parking necessary for both casinos and for night clubs. It also sets out specific regulations that must be met in order to obtain the conditional use, i.e., related to parking, bus parking and landscaping, as well as the provision of access plans that will be reviewed and approved by the township with a traffic impact study. It also identifies what accessory permitted uses are allowed for a bar, restaurant, off track betting, boutique retail, personal care service, night club, recreation and entertainment, theater, hotel and structured parking. She emphasized this is more than just a casino and encompasses long term planning for redevelopment of the overall York Galleria Mall. She noted as it relates to pawn shops, the ordinance will only allow a pawn shops in the general industrial district.

Ms. Fieldhouse stated the third ordinance is amendments to the town center overlay regulations and requirements. She explained the town center overlay provides guidance for façade improvements, bicycle pathways, pedestrian pathways, roads, blocks, lot set up – items which would not be appropriate for an existing and closed shopping mall. This section seeks to limit the larger items which would be more appropriate on a larger block or multiple block standpoint and identifies the standards for an enclosed shopping mall as part of the town center overlay. She indicated there will be provisions that will require pedestrian access with landscaping along the edges of property, in addition to new landscaped parking lot islands and diamonds and screening of rooftop mechanical equipment.

Ms. Fieldhouse indicated the township planning commission reviewed the legislation, which was also sent to the York County planning commission. The York County planning commission recommended adoption of the town center overlay placement on the three York Galleria Mall parcels because the goals and purpose of the town center overlay fits redevelopment of the mall. She noted the York County planning commission recommended not to adopt the text amendments because of the architectural controls that were built into the section taken out the zoning ordinance. The York County planning commission's viewpoint was there could be legal liability requiring architectural controls without a designated historic area. Ms. Fieldhouse stated she did not share their concern noting it has not become an issue, since they have had multiple developments in the town center overlay and all of those developments have adhered to the standards in the town center overlay.

Solicitor Rausch provided two points of clarification. First, he noted a conditional use means that if a casino were to make an application to come into the township, they would have to come before the board and the board would have to hold public hearings to make sure that they follow all of the regulations that are in these ordinances. Second, he recalled that Penn National bid \$50 million for this license. He noted originally they had until July of this month to make a decision as to where they were going to go, or they would forfeit that bid amount. They did get an extension until September to make a decision as to where to place the casino in this area. He

indicated at this point there is no decision made, and it may be that Penn National goes elsewhere in their decision.

Mr. Nace commented about the York County planning commission's recommendation not to adopt based upon the design standards, indicating they had no comment on the new definitions for the conditional use. He asked if that implied concurrence.

Ms. Fieldhouse indicated yes. She further noted if they had communicated with the township, they could have asked to take multiple actions and break apart the text amendments. But they denied all of the amendments just based on those controls.

Due to many residents approaching her regarding the casino, Ms. Phan clarified the Board was not voting upon a casino tonight. She wanted to assure everyone understood that the Board is working on the ordinance itself to be better prepared for any type of development that comes to the Galleria Mall.

3. PUBLIC COMMENT

Chairman Swomley opened up the floor to citizen comments. He asked all who would like to address the board, to come forward and state their name and address for the record. He asked that all comments be concise in the three-minute range.

Craig Glotfelter, President, Orchard Hills Homeowner's Association - 722 Mountain Laurel Lane

Mr. Glotfelter asked if the township is going to have final approval of all the design and landscaping of what goes in.

Solicitor Rausch indicated yes.

Mr. Glotfelter asked if they have a projected revenue.

Solicitor Rausch stated under the state legislation the county would get 2% and the municipality would get 2% of gross revenue up to one half of the municipality's budget. Conceivably the township could get up \$6 million.

Chairman Swomley added it was more likely to be in the 100's of thousands of dollars range.

Mr. Glotfelter asked about the pawn shops mentioned to be on the east side. He also asked if the footprint of the casino would be similar to Bon Ton or Sears.

Solicitor Rausch indicated Penn National is looking at the first floor of the Sears building.

Mr. Glotfelter asked about the night club that was mentioned.

Solicitor Rausch indicated Penn National was not planning on a night club. They may have a bar area or sit-in area for guests.

Chairman Swomley clarified the Board is not voting on the potential casino – which is not their decision to make.

John Sprankle - 1791 Memory Lane Extended

Mr. Sprankle asked about not allowing adult entertainment, as to whether that would be in writing.

Solicitor Rausch explained adult entertainment would only be allowed in the industrial district and therefore, would not be permitted in this zone which is commercial-highway.

Mr. Sprankle asked in reference to the tax share the township would receive, if they are aware of a Pennsylvania Supreme court case with Mount Airy Casino Resort which resulted that the casino did not have to pay the tax share. He asked how the revenue can be projected when it was already ruled by the Pennsylvania Supreme Court that they did not have to pay the 2% tax. He noted the title was *Casino Share Payments Stopped in Pennsylvania Counties and Towns Are Out Millions*.

Solicitor Rausch stated they are going by the state legislature as it currently stands which states the revenue sharing would be 2% of gross revenue which comes to the municipality.

Mr. Sprankle continued to voice his concerns regarding the impending casino. He asked about what constitutes personal care service.

Ms. Fieldhouse confirmed this is for hair and nail salons as defined in the ordinance.

Chairman Swomley re-emphasized the proposed ordinance is not allowing or denying the casino. This is putting rules and regulations around where it can be located. This would only allow the casino to go in a certain zone.

Mr. Sprankle voiced his concern regarding pawn shops which he felt could increase crime in the area. He provided statistics on property values going down as quoted by the National Association of Realtors which indicated 10% per property go down on a housing market that is located near casinos. He questioned why Springettsbury Township opted in when they did not have to.

Solicitor Rausch clarified on the current regulations there is no definition of pawn shop and there are no pawn shops in any of the districts. He further explained under Pennsylvania law, a municipality has to allow for every conceivable use.

Mr. Nace clarified he made the motion to rescind the opt out, noting when the state allowed mini casinos and created the legislation, municipalities had the option to opt out. The township did opt out and then rescinded the opt out in February. He stated most municipalities have opted out

because casinos were not defined. When the Board rescinded the opt out in February, they first made the motion to define casinos. The planning commission and planning director were directed to define where they could be and how they could be cited. He stated as pointed out by Solicitor Rausch a business cannot be restricted from going somewhere if it is not defined. Because a municipality does not have a definition of where the casino could go, they are free to go just about anywhere. So, most municipalities opted out to allow them because of that. When the Board rescinded the opt out, it was because they wanted to first direct the planning commission to define where they could go and start this process. He further noted the state gave two weeks to decide on whether or not to allow a casino.

Mr. Dvoryak asked Mr. Sprankle if he had any objection to the approval of the three proposed ordinances that may be up for adoption later in the meeting.

Mr. Sprankle said he could not say yes or no on that.

Mr. Sprankle asked about the change to zoning laws to allow covered malls as it relates to the Galleria Mall.

Solicitor Rausch explained because the Galleria Mall is already an enclosed mall they had to make special provisions to allow it to be placed in the town center overlay.

Mr. Sprankle asked if there was any idea as to how many people could show up to a casino on a daily basis.

Ms. Fieldhouse indicated if the max number of tables is 40 and the max number of slot machines is 750, each one of those is a gaming seat and each one of those seats is a person. With the addition of dining facilities, it could be potentially around 1,100 max capacity. But she added the likelihood of that occurring on a daily basis is very small.

It was noted that there would be sufficient parking at this site.

Ms. Fieldhouse provided the definition of personal care services, as defined by the zoning ordinance which states these are establishments primarily engaged in providing services involving the care of a person, such as a beauty shop, barber shop, nail salon, shoe repair, other salon and tanning. This definition includes incidental uses and additional related cosmetic and/or beauty services such as facials, waxing and the retail sale of cosmetic products.

Kathy Bateman - 1450 Ridgewood Road

Ms. Bateman commented that if the Board did not pass any of the proposed ordinances they would not have to worry about a casino coming here because they would not have the proper ordinances. She felt the township was considering this to make income for the township. She asked why the Board would even consider putting such a facility in the area that is within a two-mile radius near a high school, two middle schools, several elementary schools and right across from a wonderful new playground for children. She asked why the Board would add to that area a casino that requires the facility of a pawn shop near a prison and would create a severe traffic

problem for not only the gentleman who lives at the top or in the Memory Lane Extended area, but for all residents who live on Ridgewood Road. She felt the Board was ignoring the wisdom of their decisions and needed to have some consideration for the citizens and for the wisdom of what this can do as far as influencing children. She urged the Board to vote against doing this at all.

Keith Kahlbaugh – 1700 Deamerlyn Drive

Mr. Kahlbaugh indicated he is a 20-year resident of Springettsbury Township. He stated he and his family enjoy living here. He agreed with everything Ms. Bateman said. He felt it was a huge mistake that the board would opt in to allow a casino in the township. Mr. Kahlbaugh indicated when he saw it in the newspaper he sent everyone on the board an email expressing his concerns and objections. He stated he opposed amending an ordinance that allows casinos.

Duane Patterson - 75 Goddard Drive

Mr. Patterson stated he has been in the community for approximately 10 years, having moved from Oregon. He stated similar concerns. He asked for clarification on the township being locked into having the casino.

Chairman Swomley stated there are only a certain number of licenses and there is a radius around them. If Penn National chooses a different location, there will be no casino.

Mr. Patterson asked if they are the only casino builder.

Chairman Swomley stated they are the only ones that spent \$50 million for this particular license.

Mr. Patterson asked if other casinos could come in here and buy a license – meaning multiple casinos in this area.

Mr. Nace explained when the state auctioned off these new mini casino licenses earlier this year, the winning bidder in their case was Penn National who paid \$50 million for the license. The money is irrelevant. What they had to do was tell the state a location where they wish to put that casino in the state. They chose Yoe, Pennsylvania. And locked in that is their center point, which means that no one can locate within 25 miles. Within a 50-mile-wide circle from the middle of Yoe, there cannot be another casino located. That gives them the ability to look at any township or anything within 25 miles of Yoe. Mr. Nace indicated Penn National is looking at four or five different locations right now.

Mr. Nace further explained right now the way the township legislation is written they could come in and go anywhere. Chairman Swomley concurred.

Mr. Patterson asked if the township is promoting Penn National by encouraging them to locate here with incentives or other ways that would make Springettsbury more attractive to Penn National.

Chairman Swomley stated no, actually quite the opposite, noting with some of the zoning being put in place, comments have been made that it actually makes the site less attractive. He explained they are doing what needs to be done to protect the township, and to get the best possible development regardless of the outcome.

Mr. Patterson asked if the casino could be placed in the industrial zone where a pawn shop would be located.

Mr. Nace stated the intent of defining pawn shops in an industrial zone was to keep them away from the casinos but placing them in a separate area.

Laurie Lehman - 6141 Lincoln Highway in Hellam Township

Ms. Lehman indicated Hellam Township has been through this and have been protesting and praying away this casino. She indicated there was a 'hush' meeting on May 3rd. She stated their board secretly invited people to come to a meeting to vote to opt in without the majority of the residents knowing about it. After the residents found out, she stated they started petitions. She encouraged the public attendees to sign petitions against it.

Joanna Martin - 505 Marion Road

Ms. Martin sited examples of gambling addiction statistics, and issues resulting from addiction, crime, drug addiction, domestic abuse and other problems.

Ms. Phan indicated she appreciated Ms. Martin's comments and encouraged her to attend a future hearing to express her comments.

Eric Culbertson - 3260 Dorsett Lane

Mr. Culbertson asked what other areas in Springettsbury Township would be considered for the casino.

Chairman Swomley stated if Penn National decided to build they could look at any open site that was available. Examples noted included the York Valley Inn site, Modernnaire Motel site and Kmart.

Ms. Fieldhouse clarified it would need to be in commercial highway. She was not sure about mixed use and neighborhood commercial. Ms. Fieldhouse further explained it would have to be classified as a casino that came in as an entertainment facility.

Mr. Culbertson asked if Penn National decides to build it here, can they be stopped from coming into the township.

Mr. Rausch clarified if Penn National chose Springettsbury at the site of the Galleria, and they meet the standards that are being approved or voted on, then, yes, they would have to be

approved. Mr. Rausch further explained they would be required to do a traffic study, resulting in improvements on all intersections at the Galleria and Mt. Zion.

Mr. Culbertson indicated he hoped the Board would make the right decision and do what needs to be done at this point in time.

Ms. Phan stated now that the township is opted in, it's her responsibility - the board's responsibility to make sure what is done is in the best interest of Springettsbury Township. Ms. Phan emphasized that every member of the board does their due diligence, by researching and evaluating the unique circumstances before coming to a decision.

Chairman Swomley remarked about comments made about the money coming to Springettsbury, noting the township has a budget of approximately 14, 15 million dollars, with approximately the same amount in the sewer fund. He indicated he ran some numbers and determined the 2% would be maybe in the \$200,000-300,000 range. He stated in his mind this would not be a major driver for why this would be economically beneficial to the area, but having hotels, restaurants and shops coming back into the mall to revitalize the area, would have a much greater impact than a couple hundred thousand dollars possible potential revenue from the casino.

Stephen Wolf - 485 Ivory Road

Mr. Wolf stated he has been in the retail industry for 45 years and has seen the transformation of enclosed malls and their demise. He noted throughout the United States, malls have been closing at a rapid rate, with the average life of an enclosed mall being 20 years. He noted what they are doing in Florida and California and other municipalities is making strip malls with housing developments, movie theaters, office space and supermarkets in an enclosed village. They have been very successful wherever they are opening. He felt the township should look to other options rather than gambling to increase the viability out of the York Mall.

Susan Puglese - 1520 Ridgewood Road.

Ms. Puglese stated she was supportive of the public comments. She referenced earlier comments from Ms. Phan and asked why not put something in the mall that supports healthy habits instead of unhealthy habits, for example a sporting facility, a conference center, etc.

Mr. Nace stated he appreciated Ms. Puglese's comments. He clarified the township does not own the Galleria and other businesses, and the control over all of that is in the zoning. To control what goes where and how things should look is part of the comprehensive plan to determine what areas should be neighborhoods, retail, industrial or factories or prisons. He explained the Board cannot control if a place sits empty, or if someone wants to take the risk and be a real estate developer and build a new shopping mall. He indicated it is the Board's job to try to control what the private industry does through zoning and opportunities, but not to dictate or control what goes where.

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Ms. Phan added the Board is very good about not allowing someone to make a determination of what they want to do with our township, which is the reason for these ordinances. The ordinances are set so the board can put those guidelines in place.

Marsha Wollard - 1790 Deamerlyn Drive

Ms. Wollard commented after listening to the statistics and what everyone is saying, it sounds like whatever money comes in is going to have to go to extra law enforcement.

Mr. Nace stated one thing they learned during their due diligence is because the casinos are regulated by the commonwealth, there is a state police presence in the casinos existing in the state. There is a full-time state police officer on duty. He further noted from a casino perspective and meeting with the casino operators, they do not want crime and disruptive people at their place either.

Ms. Wollard commented they may have someone on their premises to prevent problems, but the residents are concerned about what happens when people leave their premises.

John Patterson - 705 Goddard Drive

Mr. Patterson asked for clarification on the ordinance which would determine where a casino could be located.

Chairman Swomley explained in general, any place that would allow entertainment within the township would have to allow a casino. The ordinance would control where it could be placed.

Tamara Shaub – 2056 North Sherman Street

Ms. Shaub asked in regard to the ordinances if Penn National is only interested in the Bon Ton, Boscov's area.

Solicitor Rausch stated that is their understanding, yes.

Ms. Shaub asked if the Board were to pass ordinances that would not allow a casino in that area, is it likely that they would not be in our area at all in the township.

Solicitor Rausch said yes.

Reuben Hilliard - 136 Weldon Drive

Mr. Hilliard was of the opinion there has been a lot of deception and hidden meetings around the casino in multiple townships. He felt the Board has the power and authority that was given them by residents who voted for them and have been entrusted to protect the township. He asked the Board to represent the residents to keep the area morally healthy by considering other options to come in to the Galleria.

Mr. Nace indicated he appreciated Mr. Hilliard's comments particularly related to morals, but stated he was extremely offended by his reference of deception and hiding and secret meetings. He stated nothing the Board has ever done in the township has been deceptive or hidden or secret and they have been very transparent. Mr. Nace stated he personally takes offense to his comments.

Chairman Swomley stated he agreed with Mr. Nace and reiterated the Board is nothing but open, holding hearings on everything they do. He emphasized they are not hiding anything and have laid the facts out on the table and have given everyone a fair chance to voice opinions.

Mr. Hilliard responded that he was not singling out the board.

Ken Strickhouser - 399 Moulstown Road, Abbottstown,

Mr. Strickhouser indicated he frequents this area because he attends the Upper Room Missionary Church. He questioned if the Board is past the point where they can opt out.

Chairman Swomley indicated that is correct.

Keith Kahlbaugh, 1700 Deamerlyn Drive

Mr. Kahlbaugh also asked if there was any chance the Board can opt out.

Solicitor Rausch indicated no.

Mr. Kahlbaugh asked if the Board realized that when you opted in they would not have a chance to opt out in the second round.

Chairman Swomley indicated yes they know that.

Solicitor Rausch added by opting in, the township said yes. If a casino wants to locate here in Springettsbury, it would be acceptable.

Mr. Dvoryak provided several comments, noting he appreciated the residents coming out this evening and voicing opinions. From a personal perspective he stated when he first heard the idea of a casino in Springettsbury, he had a negative reaction because he has a negative perception of gambling. However, he acknowledged that state law allows a casino and the board spent considerable time doing their due diligence because there is a lot of misconceptions about what gambling brings and does not bring. He felt the board is to be complimented for doing due diligence in researching everything to get to this point. Based on comments he heard tonight which make it sound like the Board is reacting to money or other factors, this was a very long researched process to get to where the board is right now. Mr. Dvoryak felt if they adopt the three proposed ordinances presented, this will limit and put some restriction in place in terms of where the casino is located and what they can do if they do choose to operate in Springettsbury Township. He noted this may not come about, and they may decide not to come here, but the board researched the facts and looked at locations that had this type of arrangement in

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Pennsylvania and other states. What the board discovered was that crime did not increase and drug levels did not increase. Their local municipal officials were pleased with the way things were going. That is not to say every situation is the same everywhere.

4. ADJOURNMENT

Chairman Swomley adjourned the Public Hearing at 7:20 p.m.

Respectfully submitted,

Doreen K. Bowders
Secretary

ja/ses