

COLLEGE TOWNSHIP COUNCIL
REGULAR COUNCIL MEETING MINUTES
Thursday, September 18, 2014

ATTENDED BY:

COUNCIL:

L. Eric Bernier, Chair
Mary C. Shoemaker, Vice-Chair
Lynn B. Herman
Carla Stilson
D. Richard Francke

STAFF:

Adam T. Brumbaugh, Township Manager/Secretary
Kent N. Baker, Township Engineer
Robert T. Long, Jr., Finance Director
John J. Franek, Jr., Management Analyst
Michael W. Heath, Zoning Officer
Mark Holdren, CRPA Sr. Planner
Mary E. Wilson, Asst. Township Secretary

CALL TO ORDER

Chair Bernier called to order at 7:16 PM the College Township Council Regular Meeting following public hearings on Ordinances O-14-08, Keeping of Chickens in Residential Areas, and O-14-13, Stormwater Management Ordinance Amendment, and the Pledge of Allegiance.

Chair Bernier announced that agenda item NB-2, Ordinance O-14-14, Bond Re-Funding, will be moved forward to follow agenda item P-1, 331 Innovation Park, for the convenience of the presenters.

OPEN DISCUSSION:

1. Mr. Francke extended his apologies to anyone who may have taken out of context his closing comments expressed on September 4th on the democratic process and resident participation during the two-year-long Hilltop area rezoning review and vote.
2. Ms. Sue Smith, Dale Street resident and member of the Affordable Housing Coalition, expressed concern regarding the future development of the rocky Hilltop area being impacted by site blasting and about commercial building construction activity impacting nearby homes, animals, the Preserve, Millbrook Marsh, as well as the aquifer. Ms. Smith asked Council to give thought to the need for less-impactful workforce housing.

3. Ms. Amanda Kunkel, Mt. Nittany Road, expressed concern over traffic conditions on her road due to hikers and visitors having no designated, safe place to park their cars when driving to the entrance of the Mt. Nittany trail. Visitors leave their vehicles on the sides of the road, which does not allow for the cars to pull off the roadway. This creates a dangerous, one-vehicle-wide driving lane oftentimes occupied by walkers going to or coming from the hiking trail. Ms. Kunkel asked Council to consider installing speed bumps, creating a hikers' path on one side of the road, providing adequate trash receptacles for visitors to the mountain, decreasing the speed limit to 15 MPH, as on Mary Alley, and posting Mt. Nittany Road as "No Parking". Photographs were provided to Council demonstrating these conditions.

Ms. Ruth Houtz-Preslar, Thompson Street, concurred with comments and observations made by Ms. Kunkel, invited Council to visit their area, and requested the Township's assistance.

Council advised that this matter would be investigated.

PLAN:

P-1 331 Innovation Boulevard at Penn State Final Land Development Plan

Mr. Greg Schrock, P.E., L. R. Kimball and Associates, Inc., representing property owner Penn State University, presented the Final Land Development Plan for 331 Innovation Boulevard Park at Penn State. This proposed plan includes an 87,324-square-foot, four-story office building with 304 additional parking spaces in Innovation Research Park.

In correspondence to Council, dated September 12, 2014, Mr. Baker, Township Engineer, advised that staff required this plan to include a revised preliminary plan, which was prepared by Sweetland Engineering and included as a part of this plan set.

Council 1) directed the developer to correct the reference to "Indiana County" to read "Centre County" on Page C1.10, and 2) inquired into the weir operation and lighting plan.

Mr. Baker recommended a third condition on this plan approval relative to the need to remove the forebay above the weir area.

Mr. Francke moved to approve the Final Land Development Plan for 331 Innovation Boulevard Park at Penn State, dated June 13, 2014, last revised September 3, 2014, with the following conditions:

- 1. Obtain all required signatures;**
- 2. Payment of all outstanding fees;**
- 3. Remove the forebay above the weir area, as directed by the Penn State Stormwater Engineer and as approved by the Township Engineer and**

- 4. Revise Note 1 on Sheet C1.10 to reflect “Centre County”.
Ms. Stilson seconded the motion.
Motion carried unanimously.**

NEW BUSINESS:

NB-2 Bond Issue Re-funding; Ordinance O-14-14, Borrowing Ordinance

Mr. Robert T. Long, Jr., Finance Director, stated that, on June 19, 2014, Council authorized staff to take the necessary actions to complete an advance refunding, provided that it resulted in net present value savings of at least 3.0% (or approximately \$150,000) of refunded principal. Concord Public Finance prepared and reviewed the Request for Proposal and Term Sheet; and Debt Counsel services were provided by Rhonda F. Lord, Esq., of Kegel Kelin Almy & Lord LLP, Lancaster, Pennsylvania. Following receipt of 12 proposals from seven (7) banks, the best financing proposal was deemed to be that submitted by Kish Bank. Kish Bank’s proposal produces over \$54,000 in additional net present value savings, with a total net present value savings of \$240,134 (4.75% of refunded principal).

Mr. Christopher M. Gibbons, Concord Public Finance Financial Advisor, and Rhonda F. Lord, Esq., Debt Counsel, presented details to Council on this bond issue refunding, as well as presented proposed College Township Ordinance O-14-14 authorizing this action. Ordinance O-14-14 proposes authorizing and directing the issuance of General Obligation Bonds of the Township, in the aggregate principal amount of \$5,363,790, pursuant to the provisions of the Local Government Unit Debt Act of the Commonwealth of Pennsylvania; determining that the Note will be sold by private sale by invitation; determining that the debt will be used to refund a portion of the outstanding General Obligation Bonds, series of 2010 of the Township; accepting a bid for purchase of the Note, and awarding the Note, and setting forth related provisions; providing that the Note, when issued, will be a General Obligation Note of the Township; fixing the substantial form, date, maturity date, interest rate, interest payment dates, place of payment of principal and interest, redemption provisions and tax free provisions of the Note; authorizing execution, attestation, and authentication of the Note; providing covenants related to debt service applicable to the Note as required by the Act, pledging the full faith, credit and taxing power of the Township in support thereof; creating a sinking fund in connection with the Note; providing a covenant to insure prompt and full payment of all obligations of the Note when due; authorizing and directing specified officers of the Township to do and perform certain specified, required or appropriate acts and things; declaring that the debt to be incurred is within the limitation imposed by the act upon the incurring of such debt by the Township; setting forth certain covenants precluding the Township from taking action that would affect the tax-exempt status of the Note; designating the status of the Note under Section 265(B) of the Internal Revenue Code of 1986, as amended; providing when this Ordinance will become effective; and repealing all ordinances or parts of ordinances insofar as the same are inconsistent herewith.

Ms. Shoemaker moved to adopt Ordinance O-14-14, Borrowing Ordinance, authorizing and directing the issuance of General Obligation Bonds of the Township in the aggregate principal amount of \$5,363,790, as presented. Mr. Herman seconded the motion. Motion carried unanimously.

MANAGER'S UPDATE:

Council reviewed the September 18, 2014, Manager's Update, and received an update from Mr. Brumbaugh, Township Manager, regarding the *Memorandum and Order* of the United States District Court for the Middle District of Pennsylvania, Case No. 4:12-cv-00672, dated August 5, 2014. Mr. Brumbaugh reported that the District Court awarded over \$80,000 to the plaintiffs for legal fees to the plaintiff's attorney. College Township does not incur any additional liability, as it is covered by the Township insurance with EMC Insurance Companies.

CONSENT AGENDA:

- CA-1 Minutes:**
- a. Sept. 4, 2014, Public Hearing-1 on Ordinance O-14-11, Gateway Commercial Zoning
 - b. Sept. 4, 2014, Public Hearing-2 on Ordinance O-14-07, Hilltop Area Rezoning
- CA-2 Correspondence:**
- /1: Email from Michele Chernega, dtd Sept. 4, 2014, regarding ongoing flooding along E. College Avenue
 - /2: Letter from Jon F. Vickers-Jones, rec'd Sept. 5, 2014, expressing appreciation for Council's handling of the Hilltop rezoning matter
 - /3: Email from Marshall Peters, dtd Sept. 3, 2014, supporting the rezoning of the Hilltop area
 - /4: Email from Sara LaJeunesse, dtd Sept. 10, 2014, opposing the Everhart rezoning request.
 - /5: Letter from Virginia Belser, dtd Sept. 9, 2014, opposing the Everhart rezoning request and extension of the RGB
 - /6: Letter from Everhart Village Concerned Residents, rec'd Sept. 11, 2014, opposing the Everhart rezoning request
 - /7: Email from Richard Lundy, dtd Sept. 11, 2014, opposing the Everhart rezoning request
 - /8: Email from Jeremy Everhart, dtd Sept. 12, 2014, supporting the Everhart rezoning request
 - /9: Letter from D. and Z. Schmidt and J. Mensch, dtd Sept. 13, 2014, opposing the Everhart rezoning request
 - /10: Email from Phil Klaus, dtd. Sept. 14, 2014, opposing the Everhart rezoning request

/11: Email from Maurie Kelly, dtd Sept. 14, 2014, opposing development and Council's and Planning Commission's handling of these matters

CA-3 Bid Award: Anti Skid Type 6S Bid awarded to Hanson Aggregates PA, LLC, for \$11.35 per ton for a total contract amount of \$5,675 based on purchasing an estimated 500 tons

CA-4 Receipt of MMO: 2015 Minimum Municipal Obligation (MMO) for College Township's Retirement Plan, as per Act 205 requirement; Certification of.

**Ms. Stilson moved to approve the September 18, 2014, Consent Agenda, as presented.
Ms. Shoemaker seconded the motion.
Motion carried unanimously.**

OLD BUSINESS:

OB-1 Ordinance O-14-08, Keeping of Chickens in Residential Areas

Mr. Mark Holdren, CRPA Sr. Planner, stated that Ordinance O-14-08, Keeping of Chickens in Residential Areas, would modify the College Township Code to permit the keeping of chicken hens in residential areas in limited quantities and under certain conditions by amending Chapter 200, Zoning, and Chapter 95, Dogs and Cats.

Ms. Melanie Fink, Julian Drive, inquired into how many Council members would be directly impacted by this ordinance and voiced concern that, due to not having homeowners' associations prohibiting chickens, this ordinance would affect those in the lower socio-economic strata to a greater degree.

Mr. Steve Lyncha, College Township Planning Commission member, concurred that homeowners' associations would prohibit chickens.

Chair Bernier replied that he lived in a subdivision with a homeowners' association.

**Ms. Shoemaker moved to adopt Ordinance O-14-08, Keeping of Chickens in Residential Areas.
Ms. Stilson seconded the motion.**

Mr. Herman referred to Page 4 relative to enforcement and fines associated with violations and expressed his objection to the steep jump from \$50 for a second offense to a \$600 fine for a third offense.

Motion failed 2 – 3 (Herman, Francke and Bernier voting nay).

Chair Bernier called for a brief recess at 8:25 PM and reconvened the meeting at 8:40 PM.

OB-2 Ordinance O-14-13, Stormwater Management Ordinance Amendment

Mr. Kent Baker, Township Engineer, stated that Ordinance O-14-13, Stormwater Management Ordinance Amendment, would modify Chapter 175 of the College Township Code to comply with Department of Environmental Protection requirements associated with the latest National Pollution Discharge Elimination System Permit.

**Mr. Francke moved to adopt Ordinance O-14-13,
Stormwater Management Ordinance Amendment.
Ms. Shoemaker seconded the motion.
Motion carried unanimously.**

OB-3 Everhart Rezoning Request; Review and Comment

In a written communication to Council, dated September 11, 2014, Mr. Mark Holdren, CRPA Sr. Planner, reported that the Everhart Rezoning Request, reviewed by Council once prior, addressed 63+ acres of the 156-acre tract of the Everhart farm directly adjacent to existing R-1 land and situated roughly 1.5 miles from downtown State College and Penn State University. The tract is currently zoned Agricultural (A); and the property owners have requested a rezoning to Single-family Residential (R-1) as a precursor to selling the land for development. Mr. Holdren offered the following densities that could be possible under different scenarios:

- No Change to Zoning or RGB/SSA: Development of 35% of the full tract, or 49 acres, under Agricultural Preservation standards would equate to between .82 to .96 dwelling units per acre (less than one house per acre);
- Expansion of RGB/SSA, But No Rezoning: 128 to 191 dwelling units all on on-lot septic systems; or
- Expansion of RGB/SSA and Rezoning: 176 to 255 single-family dwelling units.

Mr. Holdren added that a major component of this request is the expansion of the Regional Growth Boundary (RGB) and the Sewer Service Area (SSA) to include the 63+ acres of the Everhart Tract. It was noted that 6.92 acres of the Everhart Tract located adjacent to Everhart Village are already zoned R-1 and are included in the RGB/SSA.

Mr. Holdren reported that the Planning Commission (PC) recommended denial of this rezoning request on a 4-to-3 vote based on not supporting the expansion of the RGB/SSA and on the amount of vacant land currently available for future development.

Mr. Mark Torretti, P.E., Penn Terra Engineering, stated that 1) public concerns about traffic impacts on Everhart Village streets could be managed by any planned development utilizing two access points directly onto University Drive; 2) this parcel is adjacent to R-1 zoning;

3) due to urbanization, the land is now very close to the general population; 4) farming in such close proximity becomes difficult due to regulations governing the use of pesticides within set distances of residential developments; 5) this request is a continuation of the request started in 2010, which Council denied while encouraging the Everharts to return a future rezoning request to Council for a portion of their land, not the entire 156 acres; 6) after rezoning, an additional 90 acres of prime agricultural land would still remain; 7) rezoning would match the existing zoning already there; and 8) they would be considering a density of just over 2.2 dwelling units per acre, or about 152 homes.

Mr. Jim Everhart, property owner, reported that the Everhart family has farmed their land since approximately 1801 but are now experiencing the impacts of the surrounding urbanization on their ability to operate a productive farm. Spraying the fields with lime and herbicides is restricted along the nearby housing developments. The cost of harvesting 30 acres of shelled corn or soybean nets only \$50.67 per acre, which does not include fuel or insurance; and the land rent they are receiving just covers the land taxes. Due to their age and the increasing restrictions on farming, the Everharts do not want to farm anymore.

Mr. John Everhart, property owner, advised that, two years ago, they were able to sell corn for \$220 a ton. It now sells for \$125 a ton in the summer, and they still have to pay the fuel for the equipment to get it to market. Of the three options shown in Mr. Holdren's presentation, Mr. Everhart stated that the preferred option would allow for both the rezoning and inclusion in the RGB/SSA.

Ms. Jennifer Mensch, Everhart Village resident, opposed the rezoning request based on its not being in accordance with the Centre Region Comprehensive Plan or the SSA; disagreeing that it is a reasonable extension of the R-1 zone; the threat that development would inflict on the land; water concerns, as expressed by the State College Borough Water Authority's vote in opposition of this rezoning; increases in traffic; decrease in property values; impacts on Everhart Village properties; biases expressed in Mr. Holdren's report; and PC's vote to recommend denial. Ms. Mensch requested that Council look at the worst-case scenario when reviewing this request.

Mr. Robert Edwards, Kennedy Street, spoke in opposition to the rezoning request based on the revised RGB being only one year old; the Everhart property being prime agricultural land, which would be lost permanently; and the property owners asking for special relief from an unfavorable market.

Ms. Shoemaker clarified that the RGB was not revised last year, as Mr. Edwards reported. The Centre Region recognized a problem in the prior written procedures utilized when considering an expansion; therefore, the Council of Governments' participating municipalities amended the Implementation Plan, the document that addresses the steps that must be taken when requesting an expansion. The RGB itself was not modified.

Mr. Ron Stingelin, Ronan Drive, referencing a letter to the SCBWA, dated Aug. 4, 2014, from Aqualith Technologies, opposed the rezoning request based on numerous geological

conditions, such as karst topography and sinkholes, that could affect ground water; prime agricultural soils being lost, reducing the recharge area; and insufficient sewer capacity.

Mr. Andy Belser, Ronan Drive, asked about what might be remedied by the consideration of this rezoning; stated that identifying enough development land for 20 to 30 years is sufficient; and offered to work with the Everharts to remedy this situation.

Mr. Torretti, P.E., clarified that the Everhart tract is about 1,624 feet away from any of the SCBWA well fields and demonstrated that the distance was greater than that between the Shiloh Well and the nearby Independence Place subdivision and the Premier Theater, also on karst topography and sinkholes.

Mr. Dennis Schmidt, Ronan Drive, noted that the Aquilith Technologies report stated that the development in the Everhart area would be challenging, and reiterated that the SCBWA voted against the rezoning.

In response to Council inquiry, Mr. Holdren advised that single-family homes with septic tanks would be allowed on the southern portion of the Everhart parcel with no restrictions than there being no allowable development within 400 feet of a wellhead.

Council discussed 1) cluster homes; 2) protecting the well fields and agricultural lands; 3) the possibility of extending the RGB along a set line; 4) the reason the Development of Regional Impact (DRI) process was enhanced last year; 5) the fact that any support for the DRI application moving forward to COG was an endorsement for the development of this parcel; and 6) for environmental reasons, that putting this land within the RGB/SSA was prudent.

Mr. Baker advised that the rezoning and RGB/SSA expansion request could be modified to remove the rezoning and recommended seeking clarification that a municipality and COG could place a condition on a specific type of use on the RGB expansion that would be tied to the lot for five (5) years. This would give the property owners five years to act on that expansion, after which, if undeveloped, the RGB expansion would be removed.

Mr. Brumbaugh suggested that, based on Council's discussion, the PC should review the information considered.

Council did not support a denial of this rezoning request outright and suggested evaluating the middle option further, which reflects an extension of the RGB without any rezoning.

Ms. Libby Mortensen, Ronan Drive, asked if the SSA was ever expanded without the RGB being expanded; and Mr. Holdren replied that the DRI process keeps the RGB and SSA together, although a few areas within the Region are only within the SSA.

Ms. Virginia Belser, Ronan Drive, suggested looking at creative alternatives, such as farmland conservation; freezing the tax rate to allow for farmland preservation; making an educational site, such as Millbrook Marsh Nature Center, demonstrating sustainable farming.

Mr. Andy Belser, Ronan Drive, suggested that a price be established that would allow for a retirement but could also allow for an acceptable alternative.

Mr. Francke noted that the residents could purchase the farm before offering the following motion.

Mr. Francke moved to table the Everhart Rezoning Request and remand to PC the middle option, as presented by staff, expansion of the RGB/SSA without rezoning, for review, as based on Council discussion.

Mr. Herman seconded the motion.

Motion carried unanimously.

Chair Bernier called for a short recess at 10:43 PM to allow the room to clear and reconvened the meeting at 10:46 PM.

OB-4 Ordinance O-14-12, Patio Houses

Mr. Holdren, CRPA Sr. Planner, presented proposed Ordinance O-14-12, Patio Houses, which would amend the College Township Code by revising the definition of patio houses to allow multiple patio houses on a single lot. Planning Commission voted to recommend approval. Council's next step would be to set a public hearing.

Following a brief discussion, Council took the following action.

Ms. Stilson moved to set a November 20, 2014, public hearing on Ordinance O-14-12, Patio Houses, as presented.

Ms. Shoemaker seconded the motion.

Motion carried unanimously.

NEW BUSINESS (Cont'd.):

NB-1 Resolution R-14-16; 2015 – 2019 Capital Improvement Program (CIP)

Mr. Francke moved to approve Resolution R-14-16, 2015 – 2019 Capital Improvement Program.

Ms. Shoemaker seconded the motion.

Motion carried unanimously.

STAFF AND ABC INFORMATIVES:

No items were pulled for discussion.

COUNCIL/STAFF OTHER MATTERS:

Mr. Herman reminded Council that the next General Forum Meeting will be held at the Boalsburg Fire Hall on Monday, September 22nd.

COMMITTEE REPORTS:

Public Services and Environmental Committee (PSEC), Sept. 11, 2014: Ms. Stilson reported that PSEC received an introduction to the SEDA-COG Energy Resource Center (ERC) by ERC Program Director Ms. Stacy Richards. The ERC is dedicated to the development of the region as a center for efficient and renewable energy technology and expertise. The Committee subsequently reviewed a UAJA request for an update to the Act 537 Plan and received an update on the expiring time extension for the SMP Program governing septic tank inspections.

Executive Committee, Sept. 16, 2014: Chair Bernier reported that the Executive Committee set the agenda for the Sept. 22, 2014, General Forum Meeting.

Finance Committee, Sept. 13, 2014: Ms. Shoemaker reported that the Finance Committee reviewed the 2013 Financial Audit and set the dates to review the proposed 2015 COG Budget.

Centre County Association of Township Officials (CCATO), Sept. 10, 2014: Ms. Shoemaker reported that the CCATO Executive Board met to finalize the details for the September 30, 2014, Fall Dinner Convention at the CPI.

ADJOURNMENT:

Hearing no objection or any other matters for discussion, Chair Bernier adjourned the September 18, 2014, Regular Meeting of the College Township Council at 10:56 PM.

Respectfully submitted,

Adam T. Brumbaugh

Adam T. Brumbaugh
Township Manager/Secretary