

The Greene Township Board of Supervisors held a Public Hearing and Regular Meeting on Tuesday, November 10, 2020 at the Greene Township Municipal Building, 1145 Garver Lane, Chambersburg, PA 17202. (Note: Due to COVID-19, all persons maintained an additional distance during this meeting.)

Present:

Todd E. Burns	Gregory Lambert
Travis L. Brookens	Lindsay Loney
Shawn M. Corwell	Kurt Williams
Daniel Bachman	

Visitors: See list

The Chairman called the Meeting to order at 7:00 p.m. He welcomed everyone, noted that copies of the Agenda are available at the entrance, and asked visitors to complete the sign in sheet. He also informed everyone that the meeting would be recorded for accuracy purposes.

At this time, the Chairman opened the Public Hearing scheduled for this date and time regarding changes to the Greene Township Noise Ordinance. The Chairman noted that the changes were brought about by a group of residents that came before the Board at a prior meeting with some issues regarding the current Ordinance; at their request, the Board reviewed the Ordinance. The Township Solicitor, Township planner, and office staff were involved in the process. The Board compared noise ordinances from other townships, both in and out of Franklin County. The Chairman noted that while the Board is here to discuss the proposed ordinance, it does not mean that this is the version that will be enacted, or that one will be enacted at all. The Solicitor gave a brief overview of the proposed ordinance and pointed out some of the changes made from the current ordinance. The Solicitor read aloud the following definitions, as defined in the proposed ordinance: noise disturbance, plainly audible, premises. The Solicitor pointed out that one of the most significant changes is that the proposed ordinance covers noise disturbances at “any time of day”, rather than the evening hours of 10 p.m. to 6 a.m. covered by the current ordinance. The Solicitor explained that the term “prima facie evidence” used in the proposed ordinance literally means “on its face”. This means that if two or more residents are in general agreement as to the times and duration of the noise, the court considers it to be prima facie evidence. The Solicitor noted that there are sixteen exemptions to the proposed ordinance, some of which include: safety signals, public festivals, operation of lawn care services, snow removal equipment, air conditioners, heaters, operation of aircraft, railroads, farm related activities, etc. The Solicitor stated that a notice is required to be given to the person being accused of creating the noise disturbance before a criminal complaint can be filed. The proposed ordinance provides for temporary waivers; upon approval by the Board, not less than 30 days in advance, a temporary waiver may be granted for a reasonable cause, as determined by the Board. The Solicitor noted that fines are not to exceed \$1,000 per violation, previously \$300 per violation. The Solicitor pointed out that we are more of a “24 hour society” now versus when the original ordinance was written. People work different shifts, and there is a great possibility that a noise disturbance at 10 a.m. would be disturbing someone. The Chairman commented that this is especially true with the times that we are in as a nation; kids are doing more homeschooling and more parents are working from home.

Mr. Donald Franzwick (3780 Mountain Shadow Circle) reminded the Board that he was at a prior meeting and brought up the issue of his neighbor’s dogs. Since then he filed a noise complaint, but has not had anything done yet because he is waiting on the Solicitor to have a meeting with the District Magistrate Judge. Mr. Franzwick asserted that the Township should have better means of enforcement;

the state troopers should be able to go out and talk to the person in violation. The Chairman responded that the Township has no control over the state police, and they will not enforce Township ordinances. The Chairman concurred that there is an enforcement issue, and that is one of the things that makes it difficult to write and enact ordinances. The biggest thing with an ordinance is that the Township needs to be able to handle the administration in the office; we do not have a peace officer or police officers. The Township is doing the best it can with what it has. Mr. Franzwick stated that it is not fair that the person in violation is notified who filed the complaint. The Chairman acknowledged that it is a difficult situation, and noted that since the last meeting, the Board has been trying to schedule a meeting with the District Judge to iron some of these things out. Mr. Tom Maroukian (3 Greenwood Forest Road) asked if the notification of violation needs to come from the person making the complaint or the Township. He argued that the notice should come from the Township because if it comes from a neighbor, it won't have any "guts" to it. The Solicitor responded that the notice is not meant to have any "guts" to it. The notice is meant to inform the person of the Noise Ordinance and that they may be in violation. If they continue to be in violation of the Ordinance, it is up to the neighbor to file a criminal complaint with the District Magistrate. The Chairman clarified that the process of this proposed ordinance is the same as before – the person filing the complaint comes to the Township and fills out paperwork and the Township sends a notice to the person in violation via Certified Mail. It is then up to the person filing the complaint to follow through with the criminal complaint at the court level if the violation does not stop. The Chairman explained that the reason the notice is sent Certified is so that there is a record of when the notice was received. The Solicitor clarified that the notice can be given by the Township or by the person making the complaint.

Mr. Mark Helman (4 Greenwood Forest Road) asked if it is required in the notice that the person filing the complaint is disclosed. In response, the Solicitor read § 46-3.C of the proposed ordinance, which states "A notice shall set forth...the identity of the person giving notice..." Mr. Helman thanked the Board for spending time reviewing the Noise Ordinance, and doing so promptly.

Mr. Jamie Reed (539 Nicklas Drive) inquired what the Board would consider to be eligible for a waiver of the Noise Ordinance – a party or a fire department function. The Solicitor pointed out that there are sixteen exemptions included in the proposed ordinance, public festivals are one of those; fire department functions would fall under that. The Solicitor further explained that a request for waiver may be submitted not less than 30 days in advance. The Chairman noted that a waiver would need to be acted on at a Board meeting. This is a new concept, and the Board will need to create a waiver request form and develop a process for the requests.

Mr. Reed asked if it would be possible for the Township to work with the Sheriff's department as peace officers to enact the ordinances. Supervisor Corwell explained that in order to enforce laws in the state of Pennsylvania, you must be Act 120 certified. The Sheriff is certified under a different act; unless they are Act 120 certified, they cannot enforce laws. Supervisor Corwell illustrated that if a Sheriff pulls someone over for a serious road violation, they have to call the state police to come out and enforce the law because they are not able to. He further noted that if a Sheriff Deputy does have his Act 120 certification, he could enforce the law, but that is rare.

The Chairman pointed out that § 46-2.D of the proposed ordinance states that "It shall not be necessary to establish that any occurrence has lasted for a specific period of time in order to find the violation of this section." He inquired if the Board is comfortable with this or if there should be a specific time period, such as 10, 15 or 20 minutes. Mr. Franzwick asserted that the dog ordinance is 20 minutes and that is excessive; 5 minutes would be sufficient, 10 minutes tops. He also noted again that he feels mailing the complaint takes too long; it should be hand delivered. The Solicitor responded that

manpower is an issue with hand deliveries, and you don't always find the person at home to make a personal delivery. The Chairman asserted that the purpose of sending it Certified Mail is so that there is a record of when the notice was received. Going back to the issue regarding a specified time period, Supervisor Corwell stated that he feels needing two witnesses will help with that. The Solicitor explained that having two witnesses creates "prima facie" for the court, but it is not the only way. For example, someone from the Township may happen to be there when the neighbor is creating a noise disturbance and that would be the second witness. It does not need to be two neighbors. The Treasurer asked if two witnesses needed to be present to make a complaint to the Township. The Solicitor confirmed that in order to make a complaint, the resident does not need a second witness. The proposed ordinance is only stating that if there are two witnesses, a "prima facie" case is made. Mr. Reed stated that his neighbor pulls in every night at 11 p.m. with loud music playing and wakes him up. If there is a specific time period in the ordinance, a situation like that would not be covered even though it happens every single night. The Chairman responded that most District Magistrates do not want to hear cases regarding cars driving past houses with loud music, mufflers, etc. Mr. Maroukian urged the Board to be cautious with the wording – if you have a 10 minute time limit, someone could blast music for 10 minutes, turn it off for 10 minutes and back on for another 10 minutes. Supervisor Corwell noted that if there is no time limit, it could potentially lead to a bunch of complaints being filed and reduce the effectiveness of the Ordinance. He gave the example of his neighbor coming home from work at midnight in his diesel truck; if there is no time limit, he could file a complaint. The more of those types of complaints that are brought to the Magistrate, the less effective they will be. The Solicitor suggested that the wording could be changed to add "any occurrence that lasts for more than 10 minutes *or* a repetitive noise disturbance totaling 30 minutes in the span of one hour". Supervisor Brookens stated that 30 minutes in the span of one hour is too long; 20 minutes would be sufficient.

The Chairman noted that noise ordinances are very difficult to write and administer. They contain a lot of subjective language. Mr. Reed commended the Board for the way the proposed ordinance is written and thanked them for making it happen so quickly. Supervisor Corwell asked the Solicitor if he had an update on his meeting with the District Magistrate. He responded that he spoke to her yesterday, and once the ordinance is enacted, they will set up a time to meet and discuss it.

The Chairman closed the Public Hearing at 7:55 p.m. and then convened the Regular Meeting.

The Chairman brought the proposed Noise Ordinance before the Board for a motion. The Solicitor noted that adding a time period to the Ordinance would be a substantial change, and therefore it should be re-advertised and another Public Hearing held. Following review and consideration, on a motion by Shawn M. Corwell, seconded by Travis L. Brookens, and by a vote of 3-0, the Board unanimously voted to re-advertise the amended Noise Ordinance and hold a Public Hearing on December 8, 2020 at 7 p.m. at the Municipal Office – 1145 Garver Lane, Chambersburg PA 17202.

The Minutes of the Public Hearing and Regular Meeting held October 27, 2020 shall stand approved as presented and become part of the official record.

The Chairman opened the floor for public comment. Mr. Frank Mong (4300 Oak Hill Rd, Waynesboro PA 17268) approached the Board about a letter that was sent to them from the Friends of Mont Alto State Park asking for donations. He informed the Board that the Mont Alto State Park (MASP) is the oldest state park in Pennsylvania, and it needs some help. The MASP is under the auspices of Caledonia State Park, and because Caledonia State Park makes money, it receives funding from the state before MASP does. Mr. Mong explained that they have two projects in mind – (1) adding electric to the pavilion and (2) installing updated playground equipment. The playground equipment that is there

now is from the '50s. Mr. Mong noted that certified community safe playground equipment will cost approximately \$60,000 to \$80,000. So far, Quincy Township and the Borough of Mont Alto have both donated funds. The Chairman asked if they had pursued any funding at a county level or spoken to any county officials about funding through DCNR. Mr. Mong responded that he has done all of those things. He spoke to Dave Keller, and he recommended resubmitting an application to the county because their budget is "very precarious" due to Covid. Mr. Mong noted that he has a meeting tomorrow with Senator-elect Mastriano and plans on speaking to him about this. He indicated that he has also talked to Katie Hess from the South Mountain Partnership. Supervisor Brookens urged Mr. Mong to keep pressing County for funding and offered that the Township would be happy to provide any letters of support needed for funding requests. The Chairman suggested that Mr. Mong also reach out to the Pennsylvania Recreation and Park Society and noted that the County Planning Office probably has a contact within that they could provide him with. Mr. Mong thanked the Board for their time and recommendations.

The Chairman presented a tabulation sheet summarizing the two sealed bids for the fish habitat project that were tabled from the October 27<sup>th</sup> meeting. The bids were from RiverLogic Solutions, LLC (\$39,070.00) and Flyway Excavating, Inc. (\$22,600.00). The Chairman stated that he had reviewed the bids, as well as the Township Solicitor and the engineer from ECS Mid-Atlantic. The bids are both thorough and comparable. The engineer from ECS Mid-Atlantic noted in an e-mail to the Chairman that he has worked with both contractors and has confidence in both of their abilities to complete the work. Supervisor Brookens asked if the engineer had anything to say regarding the large difference in bid amounts. The Chairman replied that he did not, but when he asked him about the most substantial difference (the rock vane), his response was "Flyway knows how to build rock vane". The Chairman commented that both companies know what they are doing; RiverLogic did an outstanding job on the dam removal. On a motion by Travis L. Brookens, seconded by Shawn M. Corwell, and by a vote of 3-0, the Board unanimously voted to award the Conococheague Creek Fish Habitat Project to Flyway Excavating, Inc. in the amount of \$22,600.00 as presented, and authorized the issuance of a notice to proceed.

The Zoning Officer (ZO) presented a request for waiver of Greene Township Code 85-51.A, Requirement to Construct Sidewalks, for the Freedom in Christ Church, Final Land Development Plan. The property is located on Sycamore Grove Road. The Plan consists of the addition of an all-purpose gymnasium/fellowship room to the existing church. The request was submitted by James Maun, P.E. (William Brindle Associates, Inc.), on behalf of the church. The ZO noted that he spoke to Mr. Maun and informed him that when the Board has granted these waivers in the past, it has done so with the requirement that a note be placed on the Plan that if the Board requires sidewalks in the future, construction will be the owner's responsibility. In addition, the Board has required that the Plan show the placement of the sidewalks, even though they are not being built at that time. The ZO stated that Mr. Maun was agreeable to those conditions. Following review and consideration, on a motion by Shawn M. Corwell, seconded by Travis L. Brookens, and by a vote of 3-0, the Board unanimously voted to grant the request for waiver of Greene Township Code 85-51.A, Requirement to Construct Sidewalks, for the Freedom in Christ Church, Final Land Development Plan, with the condition that the location of the sidewalks be shown on the Plan and a note placed on the Plan that construction and construction costs will be the responsibility of the developer should the Board deem them necessary.

The ZO presented a request for review time extension for the Tycobrit 6 Lot Final Subdivision Plan. A letter submitted by Snyder Land Development Planning & Consulting, on behalf of Tycobrit, was included in the Board member's packets. The ZO informed the Board that this Plan is for the development of the former Ralph Tolbert farm on the east end of Fayetteville. The applicant's engineer is moving forward with addressing comments. This is the first extension request; the current deadline is

November 23, 2020. On a motion by Travis L. Brookens, seconded by Shawn M. Corwell, and by a vote of 3-0, the Board unanimously voted to grant the review time extension for the Tycobrit 6 Lot Final Subdivision Plan of 90 days, commencing November 23, 2020. The Solicitor noted that in the future, it would be preferred that the applicants request an extension to a date certain, rather than 90 days. For example, instead of asking for an extension of 90 days, they should ask for an extension to February 21, 2020.

The ZO presented the Monthly Zoning Office Report for October 2020, a copy of which each Board Member received. There were no Zoning Hearing Board or Conditional Use Permit applications received. The ZO reported that 22 land use permits and 4 driveway permits were received during the month of October. The total zoning fees for the month were \$1,066.00. There are no subdivision or land development plans for review. There is one Conditional Use Permit application in the works for HR Recycling, LLC. That Public Hearing is scheduled to continue on November 24<sup>th</sup>. The Solicitor noted that it appears that Mr. Whitfield is no longer on board with allowing Mr. Heck to use his property. When Mr. Whitfield was informed that he would need to sign the Conditional Use Application, he decided that he did not want to be involved and rescinded his approval for Mr. Heck to have access to his property. As a result, the original application does not need to be amended. The Chairman inquired if Mr. Stake is on the application; he is the property owner of the location that Mr. Heck operates his business out of. The ZO responded that he did not sign the application, but he is aware of the application. The Chairman asserted that the property owner should be on the application; if conditions are placed on the property, the property owner needs to be in agreement with that. The Solicitor responded that if the property owner is not in agreement with the conditions, then he would have the option to terminate the lease with HR Recycling. The ZO noted that the property owner is well aware of the application; that is why the application was submitted in the first place. Mr. Heck has indicated that he has plans to purchase the property from Mr. Stake. Supervisor Corwell asked if it would be appropriate for the ZO to reach out to Mr. Stake and ask what the status is of that sale. The Solicitor responded that it would be, and it would also be appropriate to ask Mr. Stake to attend the next Public Hearing. Supervisor Brookens inquired what the Planning Commission had to say about the application. The ZO responded that they discussed the need for fencing on the property. The Treasurer noted that she invoiced Mr. Heck for the cost to re-advertise the Public Hearing due to the amended application, but Mr. Heck responded that he would not be amending the application because he is no longer planning to use the Whitfield property. Therefore, the Public Hearing was not re-advertised, and the original application will be what is brought to the Hearing on November 24<sup>th</sup>.

The Township Engineer presented two plan review escrows to be considered for release. The first was for Plan #17-017, Menno Haven Brookview in the amount of \$470.00; the second was for Plan #18-006 Menno Haven Chambers Pointe in the amount of \$625.00. The Engineer explained that both of these plans are complete and the bonds were released at the last Board meeting. On a motion by Shawn M. Corwell, seconded by Travis L. Brookens, and by a vote of 3-0, the Board unanimously voted to release the plan review escrow balance for Plan #17-017, Menno Haven Brookview, in the amount of \$475.00. On a motion by Shawn M. Corwell, seconded by Travis L. Brookens, and by a vote of 3-0, the Board unanimously voted to release the plan review escrow balance for Plan #18-006, Menno Haven Chambers Pointe, in the amount of \$625.00.

Supervisor Corwell presented a proposal from F.T. Kitlinski & Associates, Inc. for a subsurface investigation of the Byers Road property. He explained that the property on Byers Road was a fill site for PennDOT; the subsurface investigation will provide information regarding what type of building could be built on this site in the future – size, type, etc. The total price is “not to exceed” \$8,692.00, which seems to be reasonable for the services provided. Following review and consideration, on a

motion by Travis L. Brookens, seconded by Shawn M. Corwell, and by a vote of 3-0, the Board unanimously voted to authorize and sign the proposal from F.T. Kitlinski & Associates, Inc. for a subsurface investigation at the Byers Road property, not to exceed \$8,692.00.

Supervisor Corwell presented a request for donation from Fayetteville Volunteer Fire Department (FVFD) for the purchase of two life packs related to Covid-19. These packs are used by the EMS to monitor the patient's heart. With the increase in calls due to Covid, they are very important to have. Earlier this year, one of their life packs malfunctioned and needs to be replaced; a second one is reaching the end of its useful life. The letter from FVFD states that the price of one unit is normally \$36,730; they were able to get a discount by purchasing two units. The total price for two units and a two year maintenance agreement is \$45,964. With the spike in Covid cases in our area, the FVFD number of transports is increasing, and they are requesting help from the Township to purchase these units. Supervisor Corwell noted he looked over the budget; all donations have been given out for the year, and there is \$20,000 remaining. Supervisor Corwell also noted that he has included this in the Covid-19 grant reimbursement request to County. On a motion by Travis L. Brookens, seconded by Shawn M. Corwell, and by a vote of 3-0, the Board unanimously voted to provide a \$20,000 donation to the Fayetteville Volunteer Fire Department for the purchase of two life packs related to Covid-19; the donation shall be earmarked for that specific use.

The Chairman presented the Franklin County Area Tax Board's proposed 2021 budget, a copy of which all Board members received. A letter from Jeannie Sommers, the Executive Director, is included. The letter notes that the 2021 projected cost of collection is below the authorized rate of 2.2% and at the desired rate of 2.0% or lower. The overall numbers of the budget are very conservative; due to Covid-19 and the impact on our economy, Ms. Summers is projecting a slight decrease in the amount collected in 2021 from previous years. The major increases within the budget are related to staffing and fringe benefits due to changes made to staff responsibilities and job titles, as well as changes from exempt to non-exempt status of employees. The Chairman informed the Board that the Franklin County Area Tax Board by-laws require a majority plus one (14) vote of its member jurisdictions' governing bodies to pass the budget. Following review and consideration, on a motion by Shawn M. Corwell, seconded by Travis L. Brookens, and by a vote of 3-0, the Board unanimously voted to approve the Franklin County Area Tax Bureau's proposed 2021 operating budget, as presented.

The Chairman presented the Greene Township proposed 2021 budget, a copy of which all Board members received. The Chairman noted that the overall proposed budget is similar to the 2020 budget, with slightly less revenues expected due to Covid-19. The Chairman stated that all services that the Township provides to its residents are accounted for in the proposed budget – i.e. brush pickup, leaf pickup, bulk days, etc. The usual donations to local non-profits and fire companies are also included. The Chairman noted that the public works portion of the proposed budget is similar to 2020, and there are a few road projects to be done; one of those projects was carried over from 2020. The Chairman pointed out that the recreation portion of the proposed budget includes some capital improvement projects. The liquid fuels proposed budget reflects a notification received from the state regarding the anticipated funding to be provided, which is down approximately \$55,000 from 2020. Supervisor Corwell made note that once approved, the proposed budget needs to sit for 30 days before adoption. The Treasurer noted that it also needs to be advertised. Supervisor Brookens stated that he reviewed the Host Municipality Agreement with the landfill, and it appears that the payments are set to increase by 4% next year. The revenue was down this year because of the decrease in tonnage due to Covid. Supervisor Brookens informed the Board that the agreement appears to be expiring the end of 2021; it is a sixteen year agreement. There is an automatic five year extension if neither party

renegotiates. The Chairman pointed out that this is the 42<sup>nd</sup> year that the Township has not imposed a property tax on its residents, and that is something to be very proud of. Following review and consideration, on a motion by Shawn M. Corwell, seconded by Travis L. Brookens, and by a vote of 3-0, the Board unanimously voted to approve the Greene Township 2021 preliminary budget, as presented, and also to advertise the budget and make it available for public review for a period of 30 days.

The Chairman informed the Board that he would like to advertise for receipt of sealed bids for two items – (1) 2016 Freightliner Tandem Chassis and (2) 4,000 Gallon Water Tank to be mounted to the chassis. Following review and consideration, on a motion by Shawn M. Corwell, seconded by Travis L. Brookens, and by a vote of 3-0, the Board unanimously voted to advertise for receipt of sealed bids for a 2016 Freightliner Tandem Chassis and a 4,000 Gallon Water Tank to be mounted to the chassis; bids shall be received no later than 3:00 p.m. on December 8, 2020, to be opened at the regularly scheduled Board Meeting at 7:00 p.m. that evening.

The Solicitor noted that he spoke to Supervisor Corwell regarding the ambulance service agreement, and wanted to let him know that one was sent to the Borough also. He is going to work with Sam Wisner to come up with an answer regarding the five year agreement. Supervisor Corwell indicated that he has a meeting with them on November 19<sup>th</sup>; the Solicitor responded that he will get back to them before then.

On a motion by Travis L. Brookens, seconded by Shawn M. Corwell, and by a vote of 3-0, the Board unanimously voted to authorize the payment of invoices as follows: check numbers 29068 through 29093 and three ACH transactions to be paid from the general fund, check number 3678 to be paid from the liquid fuels fund and check number 2216 and one ACH transaction to be paid from the electric light fund.

There being no further business before the Board for this meeting, the Chairman adjourned at approximately 9:14 p.m.

Respectfully submitted,

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Treasurer/Assistant Secretary