

**Cumberland Township Board of Supervisors  
August 9, 2012 Workshop Minutes**

**Public Hearing for proposed  
Stormwater Management Ordinance 2012-144  
7:00 p.m.**

Chairperson Underwood called the public hearing to order at 7:00 p.m. Present were all Supervisors; Solicitor Sam Wisner, Police Chief Don Boehs, Assistant Secretary Carol Merryman, Zoning Officer Bill Naugle and Court Reporter Deb Zepp. There were approximately thirty residents present including the members of the Planning Commission. Chairperson Underwood turned the hearing over to Solicitor Wisner.

Solicitor Wisner reported that the hearing is to receive public comments on a proposed Stormwater Management Ordinance. He added that the proposed ordinance is an update of the Township's current Stormwater Management Ordinance to keep the Township in compliance with Act 167. Please see the transcript for the entire record of the hearing.

There were no public comments and the hearing was adjourned at 7:02 p.m.

Chairperson Underwood called the regular workshop meeting to order at 7:03 p.m. The workshop was recorded.

**Mr. Toddes made a motion seconded by Mr. Ferranto and carried to approve the Minutes of the June 7<sup>th</sup> and June 21<sup>st</sup> workshops and the June 26, 2012 regular meeting.**

**Mr. Shealer made a motion to approve the bills for July, in the amount of \$115,373.45 from the General Fund and \$1,521.50 from the Escrow Fund. The motion was seconded by Mr. Ferranto and carried.**

Police Chief Boehs presented an oral and written report of Police activities for the month of June including: 578 complaints, 118 traffic stops, 109 combined arrests, 13 traffic accidents and 17,457 patrol miles. He added that the department assisted other agencies 8 times and they were assisted twice. Police Chief Boehs also reported that the new car should be on the road next week.

Chairperson Underwood reported that the Board held Executive Sessions with the solicitor for quasi-judicial deliberations on July 19th at the conclusion of the workshop, July 25th at 5:30 p.m. and tonight, August 9<sup>th</sup>, at 6:15 p.m.

**Public Comment:**

Solicitor Wisner stated that the Conditional Use application for Brandon Keller is on the agenda for action and no comments can be made on this item because the public hearing has been closed.

Mr. Tom Clowney, 361 Barlow Road, stated that our food comes from farms all across this country and he asked that the Board reconsider their decision to remove Concentrated Animal Operations from the Agricultural/Residential (A/R) zoning district.

Mr. Zachary Nell, 1096 Ridge Road, asked the Board to consider the future generations and their ability to own livestock and he asked the Board not to eliminate Concentrated Animal Operations from the A/R zoning districts.

Mr. Speros Marinos, 912 Baltimore Pike, thanked the Board for being active with McAllister's Mill and he will be hosting a combat simulator at the same time as the dedication. Mr. Marinos asked that the Comprehensive Plan be updated and then the Zoning Ordinance.

## **Action Items:**

Chairperson Underwood made the following comments regarding the Conditional Use application from Brandon Keller:

“Cumberland Township received an application from Brandon S. Keller for conditional use of lands at 1714 Mummasburg Road for ‘agricultural – concentrated animal operations for 60,000 laying hens.’ Since receipt of the application the Supervisors, Planning Commissions and staff has been involved and reviewed the following:

- Planning Commission meetings and public comments.
- Over 20 hours of conditional use hearings and testimony at Barlow Fire Company. Thanks again to the members of Barlow Fire Company for providing the space, food, and refreshments during these long evenings.
- Staff’s many hours involved in assisting many citizens in providing public information.
- Over 1,100 pages of transcripts and exhibits.
- Review of Cumberland Township and Adams County Planning Commissions’ recommendations and comments.
- Review of witnesses and citizens comments received during the official testimony period.
- Review of the Cumberland Township Code of Ordinances.
- Review of Commonwealth of Pennsylvania applicable preempted laws relating to agricultural operations in Pennsylvania and their impact on municipal regulation of such activities.
- Comments were made regarding the lands zoned as AR (Agriculture / Residential) and not R (Residential) as was previously the case in Cumberland Township. R (Residential) zoned lands allows for a greater density in housing that would impact our schools, public and emergency services, greater traffic volumes, and infrastructure (water, sewer, and utility) needs. That debate needs to happen in the future regarding AR zoning verses the impact R zoning has on areas of Cumberland Township and beyond.”

**Mr. Waybright made a motion to approve the Conditional Use application from Brandon Keller in accordance with the terms of the written decision to be issued by the Board and subject to the following conditions:**

### **CONDITIONS OFFERED BY THE APPLICANT**

1. The Applicant has acknowledged that the Applicant will be required to submit a Land Development Plan for the proposed use. The Applicant’s Land Development Plan will be required to meet all of the applicable provisions of the Subdivision and Land Development Ordinance, including, but not limited to Stormwater Management, Water Supply, and Completion of Improvements.
2. The Applicant has depicted vegetative buffers on Exhibit A-2, the Site Plan. The Applicant shall, as part of the Land Development Plan submit a landscaping plan, prepared by a licensed Landscape Architect, and be subject to the provisions of Section 22-414 of the Code, which requires in part that screening be installed and continually maintained by accepted practices as recognized by the American Association of Nurserymen.
3. The Applicant has stated that if Lot 2 or Lot 1, as described on the Deed Plot made part of the Application, is ever sold by the Applicant, , the Applicant would provide appropriate screening of Lot 2 from Lot 1. The design of the potential future screening of Lot 2 from Lot 1 shall be a part of the landscape plan referenced above, however, the Applicant shall not be required to install such screening of Lot 2 from Lot 1 unless the Applicant sells or leases (other than for the cultivation of crops) either Lot 1 or Lot 2. If the screening requirement of Lot 2 from Lot 1 is triggered, the installation of the required screening shall be a condition precedent to the Applicant’s sale or lease of the subject property.

4. The Applicant has testified that he will install with the proposed use a generator capable of powering the entire operation. The Applicant shall at all times maintain in the use a generator capable of powering the entire operation, and shall maintain the same in good working order.
5. The Applicant shall notify the Township any time the Nutrient Management Plan or Odor Management Plan is changed, renewed or amended. Such notification of the Township shall occur within five business days of the submission to the reviewing agency of the change, renewal request, or amendment.
6. The Applicant stated he would provide inspection reports of the proposed use from the Pennsylvania Department of Environmental Protection and the Adams County Conservation District for a five year period after beginning operations, or for an expanded time period if desired by the Township. The Applicant shall provide copies of inspection reports of the proposed use from the Pennsylvania Department of Environmental Protection and the Adams County Conservation District within ten business days of the inspection reports being completed and available to the Applicant while the proposed use is in operation.
7. The Applicant stated that he would establish an inspection schedule with Dr. Gregory Martin, or his equivalent for a year or two after beginning operation of the proposed use. The Applicant shall submit to an inspection by Dr. Gregory Martin or his counterpart or equivalent at least annually and shall provide the Township with copies of the inspection report within ten business days of the inspection report being completed and available to the Applicant for two years from beginning operation of the proposed use.

#### **CONDITIONS IMPOSED BY THE BOARD**

1. The Applicant shall install an asphalt or concrete surface for the areas on the Site Plan that was part of the Application (contain in Exhibit B-1 and A-2) that are designated as loading/ unloading or parking areas.
2. The Applicant shall install an asphalt or concrete surface for the access drive from the intersection with Mummasburg Road extending at least 298.43 feet (the depth of the adjacent residential lot) south. The access drive shall be maintained in good condition, as required by the Zoning Ordinance.
3. The Applicant shall install an asphalt or concrete surface at the southeastern end of the proposed layer house #2 as depicted on A-2, at the opening of the “dry litter storage” area of the smaller barn as depicted in Exhibit A-3, at least 12 feet in depth (north to south) and at least 10 feet in width (east to west).
4. The Applicant shall install an asphalt or concrete surface at the southern end of the “dry litter storage” area opening, to the west of the larger barn as depicted on Exhibit A-3, where the opening to the “dry litter” or manure storage building is proposed at least 10 feet in depth (north to south) and at least 40 feet in width (east to west).
5. The Applicant shall prepare and submit to the Township on an annual basis an Emergency Plan, which shall contain the contact information of at least three individuals who are responsible for, or familiar with the operation who may be contacted in the case of an emergency. The Emergency Plan shall also provide information as to the location of water sources on the Property in the event of a fire.
6. The Applicant shall prepare and submit with the Land Development Plan a full boundary survey of the Property.

**Mr. Toddes seconded the motion and a roll call vote was taken as follows: Mr. Waybright voted aye, Chairperson Underwood voted aye, Mr. Toddes voted aye, Mr. Shealer voted aye and Mr. Ferranto voted aye. The motion carried unanimously.**

Chairperson Underwood reported that the next item is a Citizen’s Request that Section 27-402 of the Code of Ordinances of the Township of Cumberland be amended by prohibiting Concentrated Animal Operations in the

Agricultural/Residential district. Mr. Naugle presented the required legal advertisement for the proposed consideration of the amendment. Solicitor Wisner reported that Mr. Ferranto had previously recused himself from voting on this item, but he will be voting tonight and he feels that his participation is proper. **Mr. Ferranto made a motion to adopt Ordinance 2012-143 amending Section 27-402 eliminating Concentrated Animal Operations, as advertised, seconded by Mr. Shealer and carried 4 to 1. Mr. Waybright voted against the motion.**

**Mr. Ferranto made a motion to adopt the Stormwater Management Ordinance 2012-144 as duly advertised and required by Act 167 seconded by Mr. Toddes and carried.**

**Mr. Shealer made a motion to accept 2012/2013 Highmark Blue Shield health insurance renewal with a 9.9% increase in premiums seconded by Mr. Waybright and carried.**

**Mr. Shealer made a motion seconded by Mr. Waybright and carried to authorize Solicitor Wisner to attend the Planning Commission meetings to render legal advice and support at the discretion of the Township Manager.**

**Mr. Shealer made a motion to schedule the review of Shirley Wagner's application to place her property into the Agricultural Security Area by the Planning Commission on August 16, 2012 at 7:00 p.m.; by the Agricultural Security Area Advisory Committee on August 21, 2012 at 7:00 p.m. and the public hearing by the Board of Supervisors for September 6, 2012 at 7:00 p.m. The motion was seconded by Mr. Ferranto and carried.**

Mr. Shealer reported that the Board had given approval for the Road Committee to award the bid for the seal coating project, the bid results were to be read aloud at a public meeting and affirmed by the Board. Mr. Shealer reported that two bids were received from Hammaker East, LTD, Fayetteville, PA, in the amount of \$2.33 per sq. yd. and Stewart and Tate, York, PA, in the amount of \$2.23 per sq. yd. **Mr. Shealer made a motion to accept the bid from Stewart and Tate, York, PA, in the amount of \$2.23 per sq. yd. seconded by Mr. Toddes and carried.**

**Solicitor:** Nothing further to report.

#### **Committee Reports:**

**Planning/Zoning** – No report.

**Public Safety** – Chairperson Underwood reported that the new police vehicle will soon be ready to go on the street.

**Finance Committee** – Mr. Shealer reported that we are still on target and will need to continue to be cautious because most of our funding for 2012 has been received.

**Park and Rec** – No report.

**Personnel** – No report.

**CTA** – Mr. Shealer reported that they held the pre-construction meeting for the two new lift stations and infrastructure that connects them. Mr. Shealer also announced that the Authority meeting on August 13, 2012 has been canceled since there is no business on the agenda.

**COG** – Chairperson Underwood reported that the PA COG Conference will be held in Gettysburg this year at the Wyndham on September 7<sup>th</sup> and 8<sup>th</sup> and the next meeting conflicts with the Township's workshop.

**ACTPO** – No report.

**150<sup>th</sup> Commemoration** – Mr. Ferranto reported that he will have a report at the next workshop and also from the GMA meeting.

**Economic Development** – No report.

**CT411** – Chairperson Underwood reported that the Adams County Association of Township Supervisors is planning their annual conference that will be held on November 14, 2012. Mr. Ferranto explained that based on the law he had to vote in favor of the Keller Conditional Use application although he did not want to. He added that this is the beginning of a long process for land development. He asked the residents to continue to be

involved at the meetings. He also stated that the Comprehensive Plan and zoning districts need to be updated. Solicitor Wisner stated that the Keller decision will go on the website as soon as possible and it is available here at the Township Building. He added that a letter will go out to everyone who was party to the action. The residents asked if they would be notified when the Keller Land Development Plan would be on the agenda and they were directed to check the agendas on the website. Mrs. Stone asked that the agendas be put on the website earlier so that they have time to prepare for the meeting.

There being no further business, the meeting was adjourned at 8:02 p.m. by motion of Mr. Shealer seconded by Mr. Ferranto and carried.

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Carol A. Merryman, Asst. Secretary

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