

Cherrytree Township Board of Supervisors
Regular Monthly Meeting
August 2, 2021
6:30 p.m.

A regular monthly meeting/public hearing of the Cherrytree Township Board of Supervisors was held on Monday, August 2, 2021, at 6:30 p.m., at the township building. In attendance were Jim Waugh, Dave Zdarko, and Rob Kellogg, Supervisors, and Christine Kurelowech, Secretary-Treasurer.

Call to Order

Jim Waugh called the meeting to order.

Pledge

Moment of Prayer

Jim Waugh led those in attendance in a moment of prayer.

Public Hearing – Ordinance #01-2021 (Solar)

The meeting began with a public hearing regarding Ordinance #01-2021 (Solar). The Supervisors received public comment from several people in attendance.

Ken Humanic thanked the Supervisors for allowing him to speak and said that Ordinance #01-2021 is very important to him. He said that he moved to Cherrytree Township 26 years ago and dreamed of building a better life and leaving a legacy for his family. He does not own the surface rights for his property and needs to get a return on his investment. He said that he employs 20 – 25 people and half reside in Cherrytree Township. Additionally, he pays \$20,000.00 - \$25,000.00 in taxes every year. He said that solar could give him a return on his investment, but Ordinance #01-2021 could “slam the door shut”. He said that his attorney said the ordinance is “complex and over-reaching”. Ken Humanic encouraged the Supervisors to reconsider some aspects of the ordinance and said that it includes a lot of unnecessary language and will be challenged in court. He asked the Supervisors to vote for a 60-day moratorium and said that he could get input from residents and provide changes to the ordinance within 2 weeks. He said that he asked for 60 days due to advertising requirements. He told the Supervisors that he felt his request was reasonable, noting that people who oppose solar development in the township were given time to provide changes.

Ken Humanic went on to identify several areas in the ordinance that he felt should be changed. On Page 7, under “1) Accessory Solar Energy System (ASES)”, it states that a system which is 15kw or larger would need to comply with restrictions specific to a Principal Solar Energy System (PSES). He said that he would need more than 15kw to operate his business, so he would need to apply for a conditional use and adhere to restrictions specific to a Principal Solar Energy System (PSES), making it impossible for him to conform to the ordinance. Also under “1) Accessory Solar Energy System (ASES)”, it says that not more than 10% of the energy produced by an ASES can be sold. Ken Humanic asked the Supervisors if they only permit farmers to sell 10% of their crops. Next, Ken Humanic mentioned Page 19, under “(7) Construction Specifics: Highlights, But Not Limited To”, “d. Tree Cutting”, which states, “*Solar Panels shall be located no closer than fifty (50) feet to trees. No more than 5% (five percent) of all existing forested land on any given parcel shall be cleared to host a Solar Energy System by the Solar Company or landowner in preparation of the project*”. He said that trees are personal property and that the ordinance restricts what can be done with personal property. Furthermore, he said this is discriminatory and is considered “inequity in legislation”. He then pointed out Page 22, under “(10) Total Land Usage Within Cherrytree Township”, where the total acreage

allowed for solar farms is limited to 1,000 acres, and said that the township cannot allow one company to construct a solar farm, but not another, and said that it is “obstruction of commerce” and that the new ordinance is an “anti-solar piece of legislation”. Ken Humanic also mentioned Page 24, section “c. Prime Farmland and Soils of Statewide Importance”. He noted that the United States Department of Agriculture (USDA) has no restrictions on “prime farmland and soils of statewide importance”. Ken Humanic then identified Page 25, “(12) Required Standards for Ground-Mounted PSES”, “a. Impervious Coverage” as being a problem area. He said that the Pennsylvania Department of Environmental Protection (PA DEP) has said that solar panels are not considered impervious for the purpose of stormwater and that solar panels are considered “disconnected impervious”. He said that the areas of the ordinance he identified are just a sampling of the things that are unnecessary and that the ordinance needs reconstructed.

Donna Appel stated that there are two parts of the ordinance that she finds problematic. First of all, she mentioned the ordinance restricting the percentage of “Soils of Statewide Importance” that can be used for solar development. Specifically, the ordinance states, “*PSES shall not result in conversion of more than 10% (ten percent) of all “Soils of Statewide Importance” in Cherrytree Township*”. She said that the township is insisting that land used for farming years ago must be used only for farming in the future and that the government is stripping away income from property owners. Furthermore, she said that it is not the role of government to limit the use of land as long as the property owner is not hurting anyone and is acting within the law. Secondly, she identified Page 19, section “(6) Property Operation and Maintenance Plan” as being a problem because it states, “*No chemical herbicides are permitted*”. She noted that farmers spray as much chemicals as they please and that limiting the use of chemicals at a solar farm is not fair. She told the Supervisors that the ordinance can be challenged in court and asked them to consider taking the time to rewrite it.

Chevy Biltz asked the Supervisors why he would need a permit through the township to construct a solar farm and said that, if a solar farm catches on fire, the township could be held liable by an insurance company if the township issued a permit for the project.

Dr. Donald Smith said that there are a lot of misconceptions surrounding solar farms and that Cherrytree Township will not be “dotted” with solar farms. He said that solar farms are the best way for farmers to save their land and noted that sheep can be used to clean vegetation under solar panels.

After receiving public comment regarding Ordinance #01-2021 (Solar), the Supervisors moved on to the regular monthly meeting.

Regular Monthly Meeting

Public Comment

There was no “Public Comment”.

Minutes/Treasurer’s Report

The minutes, from the public hearing (Ordinance #01-2021 (Solar)) held on Tuesday, July 6, 2021, were read, accepted, and approved, on a motion made by Dave Zdarko, seconded by Jim Waugh, and carried unanimously.

The minutes, from the regular monthly meeting held on Tuesday, July 6, 2021, were read, accepted, and approved, on a motion made by Dave Zdarko, seconded by Jim Waugh, and carried unanimously.

The treasurer’s report, for July 2021, was read, accepted, and approved, on a motion made by Rob Kellogg, seconded by Jim Waugh, and carried unanimously.

Correspondence

Deiss & Halmi Engineering, Inc. – Small Flow Treatment Facility – Cubbon

The township has been notified that Keith Cubbon has applied for a PA DEP permit to modify/replace an existing small flow treatment facility serving a single family residence at 1960 Buxton Road.

Venango County Association of Township Officials – 108th Annual Convention

The Venango County Association of Township Officials will hold its 108th annual convention on September 29, 2021 at the Oakland Township Fire Hall. Chrissie Kurelowech asked the Supervisors to let her know if they plan to attend so reservations can be made.

PSATS News Bulletin

Zoning

Permits

None

Zoning Report

Ben Breniman, Zoning Officer, reported that he recently performed an inspection of a property at 2385 Meadville Road (alleged structure falling in) and has sent an enforcement letter to the owner. He also sent an enforcement letter to the property owner of 4587 State Route 8 in an effort to have junk removed and the owner has a dumpster and said he will comply. Additionally, an enforcement letter was sent to the owner of 903 Fairview Road due to several travel trailers becoming permanently located on the property. He has not heard from the owner of 903 Fairview Road yet, but, even though the seasonal storage of travel trailers is permitted in the township, the travel trailers on the property are not there because they are being “seasonally stored”, so a zoning violation exists.

Administrative Action

Ordinance #01-2021 (Solar)–Vote to Pass

Jim Waugh made a motion to pass Ordinance #01-2021 (Solar). He said that the township cannot keep putting it off and that an ordinance needs to be in place, noting that an applicant for a solar farm would need to obtain a conditional use before being permitted and that a conditional use adds some flexibility to the regulations. He said that he felt a decision needed to be made that night and that the township needs to move on because it has been a year and a half since the process of putting solar regulations in place began. Donna Appel asked the Supervisors to table the vote and Jamey Miller noted that four weeks ago, Ken Humanic asked the Supervisors for four more weeks. Dave Zdarko said that the township cannot pass another moratorium (there have already been two that have expired). The motion made by Jim Waugh to pass Ordinance #01-2021 (Solar) died for lack of a second.

Complaint – Junk Accumulation, Etc.

A complaint was received regarding a junkyard located near the intersection of State Route 8 and State Route 417 (property has no address). On a motion made by Rob Kellogg, seconded by Jim Waugh, and carried unanimously, the Supervisors voted to pursue zoning enforcement on the owner of the junkyard in an effort to resolve zoning violations. The complainant also alleged that the owner of the junkyard has sprayed “Roundup” on the grass of a neighboring property owned by the complainant. However, this allegation does not fall under the realm of zoning and should be addressed by the district magistrate or the state police.

Committee Reports

VFD

Tom Huffman, VFD 1st Assistant Chief, reported that there were 20 calls since the last meeting. Of the 20 calls, 2 were building fires, 1 was an equipment fire, 5 were EMS, 2 were MVAs with no injuries, 7 were public service, and 3 were flood assessments.

The VFD will hold its annual car cruise and barbecued chicken dinner on Saturday, September 18, 2021. A gun show will also take place on Saturday, September 18, 2021, as well as on Sunday, September 19, 2021. The gun show will run from 9:00 a.m. – 4:00 p.m. on Saturday and 9:00 a.m. – 3:00 p.m. on Sunday. General admission to the gun show is \$5.00.

EMA Office

There was no report.

Road

Lew Staub, Roadmaster, reported that the road crew graded and brined 12 roads, pushed trees off 4 times, spent 3 days mowing berms, and mowed the yard twice. They scarfired 1 oil spot and hauled gravel to cover. Additionally, they spent 6 days fixing storm damage and installed 3 crossover pipes. He noted that, due to storm damage, the township is over its limit on gravel for the year and still needs more.

Old Business

Shreve Road Culvert – American Rescue Plan (ARP) Funding

Chrissie Kurelowech told the Supervisors that she finally found an answer as to whether or not ARP funds can be used to pay for the Shreve Road culvert replacement project. It had been questionable as to whether or not culvert replacement could be considered “stormwater”, which would make it an allowable expense under the American Rescue Plan. According to Melissa Morgan, Legislative & Policy Analyst at the Pennsylvania State Association of Township Supervisors (PSATS), the replacement and/or maintenance of culverts is considered an allowable expense. The township has received \$73,477.79 in ARP funds and is expected to receive another \$73,477.79 in July of 2022, for a total of \$146,955.58.

New Business

2022 County Aid – Discuss Projects and Eligibility

Chrissie Kurelowech told the Supervisors that she and Lew Staub, Roadmaster, had recently been discussing potential 2022 county aid projects. They first discussed possibly applying for money to put towards replacing a culvert on Breedtown Road, near the Breedtown cemetery, but after realizing the project would be eligible for Dirt, Gravel, and Low-Volume Roads funding, which would make it ineligible for county aid, they decided a better option might be to apply for money to seal coat South Perry Street. She said that part of the application process is to obtain approval from the PennDOT Municipal Services Representative, who is supposed to perform a site visit. She asked the township’s PennDOT Municipal Services Representative, Troy Cyphert, if he would approve of the township applying for money to seal coat South Perry Street and he strongly recommended that the township not submit an application for 2022 funding since it received \$25,000.00 in 2021 to put towards paving Dutch Hill Road. He said that he is recommending to all townships that they only apply for county aid every other year. The county commissioners rarely award county aid to a township if the township received an award for the previous year. Furthermore, she asked Troy Cyphert if the township would be penalized for submitting an application (application is already 90% complete) and he said, as it stands now there is no penalty, but there is talk of penalizing townships that keep applying for

county aid every year, even if their applications are denied. The applications are scored on a point system and he could not guarantee that the township would not be penalized for submitting too many applications. Troy Cyphert also recommended applying for a project that is more “long-term” than seal coating because seal coating will only last about 5 years. After a brief discussion, the Supervisors decided not to apply for 2022 county aid and to wait another year to apply again.

Executive Session

The Supervisors went into executive session at 7:15 p.m. to discuss a personnel issue. They returned to the meeting at 7:22 p.m.

Administrative Action

Roadworker – Change of Status

On a motion made by Jim Waugh, seconded by Rob Kellogg, and carried unanimously, the Supervisors voted to change Ricky Neely’s employment status from “Full-Time Class A” to “Full-Time Class B”, effective September 2, 2021. As a “Full-Time Class B” employee, Ricky Neely will be required to work a minimum of 25 hours per week and will be eligible for a smaller benefit package than “Full-Time Class A” employees.

Ordinance #01-2021 (Solar) – Vote to Pass

On a motion made by Dave Zdarko, seconded by Rob Kellogg, and carried unanimously, the Supervisors passed Ordinance #01-2021 (Solar) by roll call vote (Jim Waugh – YES / Dave Zdarko – YES / Rob Kellogg – YES).

Adjournments

The meeting adjourned at 7:26 p.m.

The bills were reviewed by the Board of Supervisors.

Respectfully submitted,

Christine C. Kurelowech, Secretary-Treasurer