

**MOUNT JOY TOWNSHIP SUPERVISORS
WORKSHOP MEETING
OPEN MEETING**

**Thursday, September 2, 2021
7:00 P.M.**

Call to Order-Roll call was taken.

Roll call was taken for every vote.

Present: John Gormont, Chairman; David Updyke, Vice Chairman; Terry Scholle, Bernie Mazer

Absent: Jeff Patterson

Also Present: Susan J. Smith, Solicitor; Shane Wise, Road Crew; Melissa Zirkle, Administrative Assistant; Shannon Hare, Zoning Officer and Code Enforcement Officer and Secretary

Public Comment

- Phillip Hunt 452 Mud College Rd-Exploration of Property value impact near utility and community solar
- Cindy Hunt 452 Mud College Rd-Footprint of solar project; weak solar ordinance
- Maryann Hartlaub 172 Plunkert Rd-Cancelled August 5th workshop meeting
- Tom Newhart 720 Plunkert Rd-Clarification on public comment
- Angie McCauslin 581 Plunkert Rd-out of state workers, surveyors' trespass on property
- Bill Thompson 4 Cottage Lane-Environmental study for solar
- Debbie Hilling 1351 Barlow Two Taverns Rd-Fiscal Responsibility-Solicitor payments, bad faith against the Links, Brookview application-no stormwater or glare study, recused Supervisor participating in executive sessions, injunctions
- Omar Hottenstein 220 Spangler School Rd-50 ft setback for solar use
- Mary Thompson 4 Cottage Lane- read Gil Clark's written public comment on the solar ordinance
- Carol Holtz 220 White Church Rd-read Steven & Sandra Yerger's written public comment on Township ordinances, Updyke participation and residency
- Omar Hottenstein 220 Spangler School Rd-read Ann Birely's written public comment-solar ordinance amendment
- Dean Shultz 1610 Baltimore Pike-solar use provisions in Zoning Ordinance (comments to be reoffered during agenda item)

Business

- Solar Energy System Zoning Ordinance Amendment. Solicitor Smith stated that the Board determined to self-draft amendments to the Zoning Ordinance for the solar energy facility use She recommended that they begin by reviewing what is already in the Zoning Ordinance. Solicitor Smith explained that amendments must in compliance with legal principals, which she reviewed. Municipalities are permitted to regulate through zoning because of the Municipalities Planning Code. The United States Constitution and the

Pennsylvania Constitution require, in doing so, there must be the balance between property rights and regulation for public health and safety purposes to reduce neighbor harm. She stated that the law requires that the Zoning Ordinance provide for all lawful uses. She discussed the issue of providing for all variants of a use and noted that community and professional recognition of an emerging use has transformed the use into a use in its own right (ex. convenience stores, big box stores and mega-warehouse). Standards cannot be drafted that “zone” it out; standards must be reasonable and defensible. A municipality cannot regulate where preempted, example environmental regulations under PADEP. Zoning cannot be used to regulate construction. Under PA law, the municipality cannot regulate aesthetics or to advance private interests. The natural operation of law states you cannot put up zoning as a barrier to development. Environmental rights balance public interest with due property rights of private entity. A use cannot be characterized as industrial just because it may involve temporary industrial activities during construction; the courts’ analogy is the use of heavy equipment during farming. If terms in zoning are too ambiguous, by the MPC interpretation must favor the property owner/applicant. Solicitor Smith explained that general standards apply unless conflicting stricter standards are adopted later in time. Solicitor Smith said that other Township’s ordinances are too new and there have been no challenges to them yet, so their standard may not be reasonable or balanced. Supervisor Mazer discussed some ideas on how the discussion/drafting should proceed. He said it should start by looking at the table of uses, whether a use is by permitted or a conditional use, followed by what standards should be applied. Solicitor Smith stated that the first step should be to review the current ordinance to review what it already contains and then identify what needs to be amended. She also mentioned adding a community solar use (use developed to serve a group of homes, for example).

Public Comment

- Tom Newhart-720 Plunkert Rd-Solar industry business model; tax subsidies; distributed packet from Rutgers University
- Mary Thompson-4 Cottage Lane- requesting that the Board consider: property value, environmental issues, ESCROW-return on investment, and what happens after 35 years.
- Scott Sanders-145 Roberts Rd- community awareness of and opinion on solar use
- Nick Demas-71 Miller Rd- How does property value decrease affect the Township’s revenues?

Agenda Amendment

Chairman Gormont said there was a business matter to be added to the agenda. Solicitor Smith explained that under Act 65 only emergency matters, matters involving clear and present danger, can be added to the agenda after it is posted 24 hours before a meeting.

Chairman Gormont explained that Updyke Rd had significant damage on the Germany side of the bridge due to Tropical Storm Ida. Chairman Gormont informed the Board that, as a result of substantial storm damage, the condition of the road is dangerous, and the road has been closed. This is an emergency involving clear and present danger to the traveling public. Chairman Gormont moved, seconded by Supervisor Mazer to amend the agenda to

add business matter Updyke Road-management of Tropical Storm Ida damage response.
Motion carried 4-1; Supervisor Updyke abstained.

Roadmaster Gormont and the Township Engineer has inspected the road damage to Updyke Road. The damaged portion of the road involves the bridge at the border with Germany Township. Roadmaster Gormont stated he intends to contact Germany Township to discuss damage response.

Executive Session (if necessary) The Board announced its intent to enter into executive session after the meeting to discuss litigation - Brookview Land Use Appeal and McCauslin RTK appeal.

Adjournment. With no further business to be discussed by the Board, Supervisor Mazer moved, seconded by Supervisor Scholle, to adjourn the meeting. Motion carried unanimously.

Meeting adjourned at 9:14 p.m.

Respectfully submitted by,

Shannon M. Hare
Secretary