

**Tulpehocken Township Planning Commission Meeting
July 2, 2020**

Present: Planning Commission Members: Robert Sattazahn, Gary Deck, John Zimmerman, Scott Hetrick, Chris Hartman and Heather Claman.

The Planning Commission meeting began at 7:35 p.m. and continued with the pledge to the American Flag.

John Zimmerman made a motion to approve the minutes from the May 7, 2020 Planning Commission meeting, seconded by Robert Sattazahn and approved unanimously. Planning Commission didn't meet in June 2020 due to lack of business.

Public Comments: None.

Active Plans:

Mountain Meadows Phase II: Time expires September 11, 2020.

New Plans: None.

Walk-In Discussions:

Other Business:

Gary Deck stated that he is concerned with foreign countries, China especially buying farmland here in the United States. The Township Solicitor did some research and found that there is a federal requirement to collect information on foreign ownership of agricultural land in the United States. It is called the Agricultural Foreign Investment Disclosure Act. There is a report compiled by a group called the Midwest Center for Investigative Reporting about foreign ownership of farmland in Pennsylvania. There are three properties in Berks County that are owned by foreigners. It seems to be happening more in the Midwest.

There seems to be foreign interest in timber investment and investment in real estate for wind farms. In Pennsylvania it seems to be mostly European countries that have investments in farmland.

The Township Solicitor stated that there is some Pennsylvania state law on this topic. After the Revolutionary War, there were some statutes that were enacted about foreign ownership of land. There are some additional statutes after the War of 1812 but the ones that focus on agricultural land are from 1980. In the 1970's there was a surge of foreign investment in farmland in the United States. In 1980, the Pennsylvania legislature enacted a statute that says that a non-resident of Pennsylvania, the United States or District of Columbia cannot acquire an interest in agricultural land exceeding 100 acres. Unless the land would be inherited which only a living person could inherit the land, not a company. Or if the land is being held security for indebtedness and that means a foreign bank could give a mortgage to a farmer in the United States and if they foreclose on the mortgage, the bank can then take the land. The law goes on to

say that in the event that someone takes the land through a foreclosure, they would have to get rid of the land within 3 years. They could not hold it indefinitely.

There is another exception. This says that the provisions of this section shall not apply to citizens, foreign governments or subjects of a foreign country whose rights to hold land are secured by treaty. The United States apparently has treaties with foreign countries that allow them to own more than 100 acres in the United States. That treaty provision basically takes away the Pennsylvania power to regulate foreign ownership of land in the state of Pennsylvania. In 1980 when Pennsylvania legislature was considering putting the 100 acre limit on foreign ownership, the United States government got involved and said that we have to have reciprocity with other countries.

To recap, there is a lot of foreign ownership of farmland in Pennsylvania. There is a law on the books that limits foreign ownership to 100 acres, but there is an exception for a treaty with a foreign country. That is most likely how the foreign owners are able to buy over 100 acres in Pennsylvania.

In Pennsylvania, it doesn't seem like China is the issue. The only one piece of ground that is one acre on the list that is owned by a Chinese entity and it is owned in Lebanon County. Based on the Federal Database of foreign farmland in Pennsylvania, there are not a lot of Chinese involved.

Local governments in Pennsylvania derive their authority from state law. The people of Pennsylvania are considered a political entity that forms the government of Pennsylvania. We consider the state government to be a sovereign government meaning the state government derives its power directly from the voters of Pennsylvania. The cases are clear that local governments are the creation of state government. Local government only has the power to regulate things that are allowed to be regulated by state law.

The Township Solicitor stated that there is nothing in the municipal codes that gives the local government the power to regulate the ownership of land. Only the state government can do that. With that being said, as local government, we have every right to take a political position on this topic and express the sentiments of the community if this is an issue that is of concern. **The way that is done, is by adopting a resolution at the Board of Supervisors meeting setting forth your view of the topic and it is sent to the elected state and federal officials (senators and representatives) that do have the authority. There would need to be follow up letters and phone calls to be sure that the topic is addressed.**

John Zimmerman questioned what agency in the state of Pennsylvania is responsible for permitting the purchase of the Pennsylvania farmland by people who are not United States citizens? Secondly, is that particular agency presently active and do they have a procedure that it follows and a record that states those who have purchased land? If a citizen of the United States and a resident of Pennsylvania has a concern, how is that addressed to make that concern known. Is there a format that needs to be followed? The Township Solicitor stated the database is from the Federal Department of Agriculture. Information is required to be collected by the agricultural foreign investment disclosure act which was a 1978 law. The administration of that

law is by the United States Department of Agriculture. The law also requires them to make periodic reports to Congress and the President about the information that they are collecting. At the state level, the Department of Agriculture for information on their administration of the 1980 law from Pennsylvania, the 100 acre law. The last sentence of the section that states it doesn't apply to citizens, foreign governments or subjects of a foreign country whose rights to hold land are secured by treaty. It could very well be that eats the whole law and there is nothing happening at the Pennsylvania level. **The Township Solicitor would have to do more research. He has legal contacts at the Department of Agriculture. He could try and get additional information on this and see what if anything the Department of Agriculture in Pennsylvania is doing to enforce or administer the state law. Additional research would be appropriate to make sure that we understand what the facts are on this subject.**

Foreign ownership makes up about 2.2% of farmland in the United States and 1% of all land as of 2019.

Scott Hetrick commented about being a member of National Write Your Congressman. There is a yearly fee and it is a forum where you can discuss and voice your opinion on bills that are being addressed and various other topics.

Robert Sattazahan made a motion to recommend to the Board of Supervisors to keep looking in this topic. We are an agriculture community and would like to see it stay that way. Seconded by John Zimmerman and approved unanimously.

John Zimmerman questioned the status of the meeting regarding the paving in Mountain Meadows. Louie Hurst, the developer, the Township Engineer and Lester Feick were present. *John Zimmerman made a motion to recommend that the Board of Supervisors update the Planning Commission with the status of paving in the development. Seconded by Robert Sattazahn.*

Gary Deck commented to the other members that the Board of Supervisors are working on a Resolution regarding becoming a 2nd Amendment Secondary Township. The Township Solicitor stated the Township does not have the authority to overrule the state laws, however as a Township we have a voice. The Township Solicitor is not advising the Township to violate federal or state law. However the Township has a right to take a position on an issue.

John Zimmerman asked who the key people are, on a County level that are politically involved with the farm community? The Township Solicitor stated the County has taken a position that you can't buy easements on land that is not designated on their future land use map as agricultural land. It leaves out a tremendous number of farms in Berks County. Farms in which the County calls "Rural Conservation" now that might be with more slope on the land. The County states that these farms are not eligible for preservation. Anything that the County has designated for future development, regardless of what the intention of the property owner is, they will be rejected for preservation. The County is protecting development opportunities for that land even if the owner doesn't want to develop the land. The County leadership is tolerate of farmland preservation but not really promoting it. A comment made was as there are property owners that want to preserve their land, the program should be funded. **John Zimmerman**

stated that as a Planning Commission, we should look at the people that are running for County Commissioners and take note of the candidates are who are interested in preserving farmland.

Robert Sattazahn made a motion to adjourn the meeting at 8:35 p.m., seconded by John Zimmerman and approved unanimously. The meeting was adjourned.

Respectfully submitted,

Heather Claman, Planning Commission Secretary