

WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING

Stokes Assembly Hall
1039 Wilmington Pike, Westtown Township
March 8, 2017 – 7:30PM

Present

Commissioners – Rodia, Adler, Pomerantz, Hatton, Lees and Yaw. Also present was Township Planning Director Chris Patriarca, Township Manager Rob Pingar and those mentioned below.

Call to Order

Mr. Pomerantz called the meeting to order at 7:30 and led those present in the Pledge of Allegiance.

Adoption of Agenda

The Agenda was approved unanimously as amended (JL/SR).

Approval of Minutes

The minutes of the Planning Commission (PC) meeting of February 8, 2017 were unanimously approved as presented 6-0 (EA/SY)

The minutes of PC meeting of February 13, 2017 were unanimously approved as presented 6-0 (SY/JL)

Reports

Mr. Pingar presented the February 21, 2017 Board of Supervisors (BOS) meeting. The BOS appointed Kristin Camp to serve as PC Solicitor for the Crebilly CU hearing and heard a presentation from Cedarville for further services associated with MS4 permitting and announced the resignation of Brent Whitig from the PC.

Mr. Rodia presented the March 6 BOS meeting. At their workshop the BOS discussed the Westtown Woods land development and rezoning. At their regular meeting the BOS had reports from Public Works and the Historical Commission. Under public comment a petition was presented for the repaving of Thorne Drive, concerns were expressed about real estate signs, and the paving status of 926. The BOS then approved the Hosier lot consolidation, signed a resolution for a Green Light Go grant application and authorized Carroll Engineering to start the process of studying the Oakbourne bridge for future replacement.

Announcements

Mr. Patriarca stated the March 22 meeting will start at 6:30 for the conversation with PennDOT.

Public Comment – Non-agenda items

Steve Takoushian – 204 South Deerwood Drive: Mr. Takoushian asked about the status of the Westtown Woods project and his desire for a stub to potentially connect South Deerwood to public sewer. Mr. Patriarca stated the application is presently before the BOS at their workshop and that the sewer connection requests will be forwarded to the BOS for their consideration.

New Business

Pipelines and above ground facilities zoning and SLD ordinance amendments

Mr. Pomerantz opened the discussion with representatives from the Chester County Planning

Commission (CCPC) on draft zoning and subdivision ordinance amendments relevant to pipelines and associated above ground facilities. Carol Stauffer of the CCPC introduced herself as the County infrastructure planner as well as the pipeline contact with them. She stated they work to keep up-to-date information and resources for pipelines throughout the County. Ms. Stauffer stated the CCPC does endorse the model pipeline ordinances although they did not develop them in-house. She further stated the models are consistent with all applicable Pennsylvania law but do not wade into issues regulated by other agencies (DEP, EPA, FERC) and do not relate to the siting of pipelines. To address issues outside of the models she suggested full review from a solicitor and that they complement what outside agencies require.

Mr. Pomerantz noted Westtown is relatively built-out and asked how the models may apply. Ms. Stauffer noted the zoning amendments can impact existing facilities and potential new development. Mr. Pomerantz first asked if the Mariner East 2 (ME2) pipeline can be stopped, and Ms. Stauffer stated the project is well in process with DEP permitting complete. Mr. Pomerantz next asked if the proposed drafts do a good job in ensuring public safety on a one to ten scale. Ms. Stauffer rated the models as eights based on how much they do regulate. Mr. Pomerantz then asked about risks associated with ME2, and Ms. Stauffer noted the greatest risks are generally associated with when they are struck by accident. Mr. Pomerantz noted people may not consider risk until something catastrophic occurs and brings attention to the issue, and Ms. Stauffer stated she is unaware of major incidents in the County.

Mr. Pomerantz followed by asking why the County had not previously provided for more information on pipelines until recently. Ms. Stauffer stated there has been more significant work on pipelines since 2008 that has brought more awareness to the issue resulting in the County now providing more resources on the issue. She emphasized the County is not pro or anti pipeline, but serves to provide information on pipeline related issues.

Mr. Pomerantz noted the role of the fire marshal and asked if Westtown has one, to which Mr. Pingar said Westtown does not. Ms. Stauffer noted the first responders have training for pipeline emergencies, but that the pipeline operators themselves know best how to manage an incident. Mr. Pomerantz noted in the Sunoco promotional materials their good safety record, but asked if anyone in attendance was aware of incidents from the company. He further asked if state regulatory agencies take into account previous safety issues, and Ms. Stauffer stated she believes each project is reviewed independently.

Mr. Rodia noted one of the major issues in the energy industry over the past decade is a lack of investment on maintenance of existing infrastructure. Specific to Sunoco Logistics, he noted only one half of a percent of their fixed assets are dedicated to maintenance with much revenue going to shareholders. Mr. Pomerantz asked if there were additional issues she would recommend for inclusion in the drafts, and Ms. Stauffer stated she does not based on the effort that went into the creation of the draft. Mr. Pomerantz noted other municipalities have adopted ordinances with a different flavor and if she views one as being better than the other. Ms. Stauffer stated she would recommend consultation with Gaadt Perspectives as they were the firm responsible for the development of the CCPC model.

Mr. Hatton asked if there was increased risks associated with the ME2 project as it is proposed for an area that already contains existing pipelines. Ms. Stauffer noted she has heard this concern before, and that there can be more risk, but that this is also reduced through the use of

horizontal directional drilling (HDD).

Jim Gallagher – Representative of the Steamfitters Local 420: Mr. Gallagher provided an overview of the certifications required for them to work on the project. He further stated all welds associated with the pipeline are x-ray inspected and that the pipeline is pressure tested prior to going into service. Mr. Gallagher noted 22 steamfitters live in Westtown and the economic boom provided from pipeline construction has been very good. Specific to the older infrastructure, he noted it does need to be investigated and maintained, but newly constructed infrastructure will not age in a similar way. Specifically he noted the corrosion and rot is greatly reduced due to new technologies, materials and techniques.

Specific to safety with Sun Logistics, Mr. Gallagher noted the company follows very strict safety protocols for all workers on their projects. He further noted a safety violation/incident can be as small as dust getting into a workers eyes. Specific to weld rejection rate, the Sunoco project is less than ten percent as compared to ten percent nationally for similar projects. Mr. Gallagher then reemphasized the economic importance of the ME2 project as over 25 percent of their members lost work during the recession.

Mr. Hatton again stated his concern with the ME2 project was with the environmental side specific to air and water pollution, and wants to better understand long term monitoring of the pipeline after it is installed. Mr. Gallagher stated current procedures include regular investigation to test for everything from pipe thickness and integrity. This type of monitoring occurs at monthly intervals for Sunoco. Mr. Pomerantz asked what the response time for Sunoco would be in the event of some type of failure and Mr. Gallagher stated it would be immediate as a result of the sensors installed as part of the project. He further stated that Sunoco is the first pipeline operator to authorize a shut down a pipeline in the event of an emergency, regardless of how it may impact their bottom line.

Mr. Yaw noted only about a dozen of the 73 Chester County localities are not impacted by pipelines and asked if other localities have adopted similar pipeline related ordinances. Mr. Patriarca stated on the CCATO website, they list East Goshen, West Goshen, Willistown, Upper Uwchlan, East Bradford and West Whiteland as having pipeline related ordinances and that he was unaware of additional localities that may have adopted similar ones. Mr. Yaw asked specific to ME2, what will be transported and Ms. Stauffer noted that they will transport highly volatile liquids (HVLs). She further noted the ME2 project is considered both inter and intrastate which resulted in the public utility determination from the PUC. Specific to siting, Ms. Stauffer noted there is nothing in place to regulate the siting for ME2, but that there is some ability with natural gas pipelines due to FERC regulations.

Ms. Stauffer stated something classified as a public utility does not necessarily have to comply with local ordinances and that due to where in the process ME2 is questioned if a newly adopted ordinance would apply to it. She then stated consideration should be given to include provision relevant to noise associated with pipeline construction given the noise associated with the HDD. She noted Upper Uwchlan did have noise regulations in place that were subsequently enforced. Mr. Patriarca stated the Township has a noise ordinance already in place, and Mr. Pingar stated Sunoco has made a commitment to comply with the noise ordinance.

Nancy Harkins – 1521 Woodland Road: Ms. Harkins stated the drilling location in Westtown will

be at St. Simon and Jude with the next location being sited at Andover in Thornbury. Mr. Pingar stated the pipe will be laid out alongside 352 south of 926 and then be pulled back to the pit once the HDD is completed. He further noted integrity work was previously done to the existing pipelines approximately five feet below surface, with the new pipeline being significantly deeper. Specific to the proposed draft ordinances, he stated they would only impact surface facilities associated with pipelines and that even if it were in place would not impact the ME2 project as no surface facilities are proposed.

Mr. Yaw asked if shutoff valves are considered surface facilities, and Mr. Pingar stated they are and if the Township is to require more the ordinance should allow for flexibility for their placement. He further stated shutoffs are not proposed with the ME2 project in Westtown. Ms. Stauffer stated that Sunoco is required to pre and post-test wells within 150 feet of the project at the request of the property owner, but Ms. Harkins stated this testing is provided for only properties containing Sunoco easements.

Mr. Lees noted he has several clients along Boot Road in East Goshen and was told by them the second proposed line will go in concurrently. Ms. Stauffer stated the 20 inch pipeline will go in first, but that the HDD process does not allow the 16 inch pipeline to be installed concurrently. Mr. Lees stated the timing should be closer to minimize installation impacts. Mr. Rodia noted that the industry expected the 20 inch line to be operational by the end of 2017 and noted the new techniques and technologies to monitor pipelines is much improved and questioned what type of maintenance has been undertaken on existing pipelines. He asked what can be done through ordinance provisions to ensure existing facilities are inspected and properly maintained. Ms. Stauffer stated there has been on-going maintenance on pipelines throughout the County. Mr. Patriarca stated that additions could be considered to the ordinance to require pipeline operators to copy the Township on their reporting requirements.

Mr. Pomerantz asked if the infrastructure has not been maintained, then it implies neglect from the regulatory agencies, and asked why the local ordinance cannot go further to regulate these issues. Mr. Patriarca stated a locality can do what he suggests, but they need to be prepared for a potential challenge to the regulations.

Mike Di Domenico – 1530 Woodland Road: Mr. Di Domenico stated Pennsylvania is a commonwealth and is bottom up government. He acknowledged there is risk with going the next step as Mr. Pomerantz suggested. He noted citizens have the right to sue, and this is what is occurring to slow the ME2 project. Mr. Di Domenico stated the BOS and the Township as a whole will have to determine what path to follow. Ms. Harkins stated the Robinson Township case provides for precedent for municipal ordinances applying to pipeline projects. Carrie Conwell of the CCPC further suggested a conversation with County Emergency Services may be appropriate to further refine emergency procedures in the event of an incident.

Mr. Patriarca stated he and Mr. Pingar were able to speak with the Township Solicitor for his initial thoughts on the proposed draft ordinances and as a result of that conversation has several refinements to the draft for the PC to consider. The first of these recommendations was relevant to section C to allow for the BOS to “increase” and not “modify” setbacks to ensure setbacks are not less than the minimum proposed by the model. The second suggestion was to insert back language to the landscaping provision requiring eight-foot fencing and fully grown

landscaping for any above ground facilities and further amend the ordinance section relevant to fencing to allow for eight-foot fences for this purpose.

The third suggestion from the solicitor is to allow for flexibility in the placement of shutoff valves as the mandated setbacks combined with the relatively built-out nature of the Township may necessitate their placement at locations of less than 750 feet from neighboring properties and structures. He further emphasized surface facilities like shutoff valves would require conditional use approval. Ms. Stauffer stated FISMA determines the minimum number of shutoff valves required for a pipeline project, but whether or not a locality can require more will need a legal opinion.

Ms. Adler asked about the provision to only allow for surface facilities in the M-U district and on Township owned properties and if this is problematic. Mr. Patriarca stated the existing pipelines do go through larger Township open space properties or are located within public ROWs. He did emphasize that flexibility should be considered for safety related facilities to be located in other areas as deemed appropriate through conditional use testimony. Mr. Pomerantz requested the language be amended under the purpose section of the ordinance to read "intent and necessity to protect."

Mr. Patriarca next spoke to the emergency operations component and stated Mr. Pingar has reached out to the EOP coordinator to begin discussion on potentially amending the EOP to be inclusive of pipelines. Mr. Pomerantz noted an EOP is in place in the Township to address emergency issues, but that it does not include pipelines. Mr. Di Domenico stated he spoke with the EOP coordinator and stated his concerns were with the lack of a designated fire marshal and with exactly who the first responders would be in the event of a major incident. Specific to ME2, the Goshen Fire Company fire chief would be the commander, but in the event of a major catastrophe, Chester County as a whole would not be properly equipped to respond. He further noted the dangers of one of the pipes failing and the domino effect it may have with the other pipelines traversing the community.

Mr. Pingar stated within the present EOP it does make reference to neighboring services and how they would band together in the event of emergency. He further stated communications for such an event would be handled by the County. He has encouraged the EOP coordinator to coordinate with the County for a regional meeting on this issue. Ms. Harkins noted there are different levels of incidents and that a smaller incident may have a significant impact on those within close proximity to the pipeline. Mr. Pomerantz stated he brought up the issue of the EOP and noted at a seminar he attended on the issue of emergency planning that pipelines were not included in the discussions.

Mr. Gallagher stated he understands the safety concerns expressed, but that he does believe they are slightly overstated. He then stated transport of pipeline materials by truck or train is much more unsafe than by pipelines. He further stated in spite of it not being specifically called out in the EOP, he was confident in first responders handling an incident if it arises.

Mr. Patriarca stated this discussion was the first step in the amendment process and that he was looking for general comments on what has been presented for the BOS to consider. Once the BOS takes them into account, in addition to other issues that may decide to include and a legal review is complete, 247 review will be authorized and the PC will make a formal

recommendation at that time. As such he would request the PC to offer additional comments on the model ordinances first followed by comments on the issues of well testing, shutoff valves and any further concerns the PC or those in attendance may want consideration for in an ordinance.

Specific to the issue of well testing, there was unanimous agreement that consideration should be given to it subject to review by the Solicitor. Mr. Rodia stated his concern with well contamination as Westtown is a very populated area. Mr. Yaw agreed with this sentiment, but that it should piggyback current DEP regulations on the topic. He further cautioned anything more than what DEP requires could be problematic from the standpoint of a potential ordinance challenge. Ms. Stauffer stated for the ME2 project testing was required, but this does not necessarily apply to all pipeline projects.

Mr. Di Domenico stated one of his concerns is with well water as he is 250 away from where the ME2 project will occur. He further noted Sunoco did not need an easement from him to construct their project and that they are permitted up to a pair of 24 inch pipelines. Mr. Di Domenico asked Sunoco to pre-test his well and was denied the request as he does not have a Sunoco easement on his property. As such, he independently had his well tested with Powell Well Drilling. The well tested fine but cost \$750 for the test and Sunoco refused to reimburse for it. Mr. Di Domenico stated the hydrogeologist indicated the location of aquifer in the area of his home in conjunction of the topography of the community, Sunoco will drill through the middle of the aquifer. He further stated much of the public water in the area is from well water and given what is proposed it can take from three months to a year to know if the process caused any contamination. As such, he recommended a significant radius for well testing and connect with a well driller for their insights on this issue.

Specific to the issue of automatic shutoff valves, there was unanimous agreement that consideration should be given to it subject to review by the Solicitor. Mr. Patriarca reiterated that for existing pipelines, a degree of flexibility with mandatory setback requirements to allow for the placement of shutoff valves will likely be required for its accommodation. Ms. Harkins stated that for ME2, automatic shutoff valves are proposed for location in West Goshen and Thornbury at intervals of approximately six miles in southern Chester County. There was concern from the PC on the amount of materials in that length of pipeline. Mr. Patriarca stated where they would be located would be based on testimony given as part of the associated conditional use hearing. Ms. Stauffer noted additional shutoff valves are proposed with the ME2 project, but they are not all automatic, but the number to be installed has been approved by FIMSA. Mr. Hatton stated there should be a defined hours of operation for pipeline construction operations, and Mr. Patriarca stated they will be subject to the existing Township noise standards.

Mr. Pomerantz asked what the traffic implications will be during construction along 352 and if there is anything the Township can do to address negative traffic impacts. Ms. Conwell stated that PennDOT will not permit any road closures associated with construction of ME2 and this was also one of the reasons installation by HDD was selected. An audience member asked how long work will occur at each pit site and Ms. Conwell stated it is variable based on the length of the pipe installation and the geology of the site with an average of 100 feet bored per day. Mr. Di Domenico stated construction should take 3-4 months through Westtown based on conversations with Sunoco.

Dave Simpson – 1005 Windy Knoll Road: Mr. Simpson stated as a steamfitter and Westtown

resident, he is sympathetic to the well issue and the concerns associated with it, but that Sunoco has procedures in place to prevent well contamination from becoming a major issue. He further stated that residents who have this concern outside of the vicinity of the ME2 project, it is something the individual resident would be responsible for having testing done. Specific to a catastrophic event associated with the pipeline, Mr. Simpson suggested that Westtown and all of our neighbors would come together for the response and further questioned when the last significant event occur associated with a pipeline in the community. Mr. Rodia again stated maintenance of existing pipeline facilities has not been a priority within the industry.

Richard Shao – 1424 Valley Drive: Mr. Shao noted the time and money has already been invested in ME2, and further suggested if a pipeline is failing it will be repaired or decommissioned. Ms. Harkins stated relevant to safety that Sunoco is not decommissioning any older pipelines and that based on their own data reported to FIMSA they have the worst safety record in the industry.

Mr. Pomerantz noted many people are going to most concerned about safety as it relates to pipelines and that the EOP should address this in order to help address these concerns when asked. He further stated the Township should have their own plan in order to improve communications on issues related to pipeline emergencies. He again noted at a County-sponsored workshop on the EOP he previously attended that pipelines were not addressed as part of the overall discussions.

Tom Mapes – 14 South Garden Circle: Mr. Mapes stated all steamfitters go through extensive training and background checks prior to working on major jobs such as ME2. He further noted that all welds and valves associated with pipelines are x-rayed and pressure tested prior to going into service. Specific to new pipelines, he stated they all have automatic shutoff valves and that above ground facilities should be avoided when possible as they are more subject to failure than those below ground. From the workers point of view safety is incredibly important and there is significant redundancies in safety protocols to ensure safety of the workers and of the pipelines as a whole.

Ms. Stauffer was pleased to see Westtown take such a deliberative and thorough approach to address this issue. Mr. Patriarca stated the next steps will be for the BOS to refine the ordinance further and that when it gets back to the PC he will work to have legal counsel and/or other persons present to speak to PC.

Kathy Di Domenico – 1530 Woodland Road: Ms. Di Domenico asked if language can be added to require the Township be copied on pipeline operators reporting back to regulatory agencies relevant to maintenance and safety. Mr. Patriarca stated this type of language can be added to the draft. Ms. Di Domenico followed by asking if the proposed ordinances will be for only ME2 or all existing pipelines in the Township. Mr. Patriarca stated the ordinances will apply to future facilities associated with pipelines in the Township. Mr. Pomerantz closed by asking if counsel can be present next time an issue as complex as pipelines is discussed and thanked those in the audience for their attendance and participation in their discussion.

Public Comment

There were no public comments.

Adjournment

10:00 pm (DP/SY)

Respectfully submitted,

Chris Patriarca
Planning Commission Secretary