

## **APPROVED MINUTES**

### **West Penn Township (WPT) Water Resources & Planning Steering Committee October 9, 2017**

#### **I. Call to Order**

A meeting of the West Penn Township (WPT) Water Resources and Planning Steering Committee Committee was held at the West Penn Township Annex Building on October 9, 2017. The meeting was called to order at 7:00 p.m. by the Chairperson, Theodore Rosen.

Committee members in attendance included Ted Bogash, Timothy Houser, James Land, Jr., David Lapinsky, Elaine Lapinsky, Allison McArdle, Dean Meiser, Theodore Rosen, and Jamie Shellhammer.

Committee members absent were James Dean and Bob Miller.

Guests included Gabrielle Fiebert, RoseAnne Georgiades, David Knoedler, and Tony Prudenti.

#### **II. Review and Approval of the Minutes of the 9/25/2017 WPT Water Resources and Planning Steering Committee Meeting**

A motion was made and seconded to approve the minutes of the September 25, 2017 meeting to accept the Minutes as presented without modification. Motion Carried.

#### **III. Agenda Item : Game Plan**

The Chairperson discussed the mission of the Committee and indicated the focus initially will be on the existing water extraction ordinance and then move on to water resources planning. Chairperson explained the committee is working with pencils and erasers and not ink. The goal of the committee is to deconstruct and consolidate the current WPT Water Extraction Ordinance to make recommendations to the WPT Board of Supervisors for possible revisions to the existing Ordinance. These recommendations will be in simple terms the general public can understand. The committee will review and discuss a variety of related topics including, but not limited to, terminology/definitions, applicable laws, and other current water extraction ordinances in effect in surrounding areas as well as outside of the state. When necessary invitations will be extended to speakers from various disciplines and agencies to provide information to the committee.

The Chairperson indicated a preference for a poll/consensus among members for items requiring approval. Only one vote will be taken at the end on the final document. There will be a two hour time limit for meetings. We will include a Preamble to introduce the ordinance that will address laws, reasons, and authority for writing the ordinance. Meetings begin at 7:00 p.m.

#### **IV. Agenda Item: Terminology**

1. Discussion on the terms water withdrawal, water extraction, and water harvesting. Consensus was to use the term water withdrawal with subsets of water extraction and water harvesting. If there is a difference among the three terms, and it's important to our thinking, we will revisit.
2. Discussion on what kind of water withdrawal are we writing an ordinance for? Consensus was we are writing an ordinance for water withdrawal for sale off-premise. Question? Do we need to add a minimum quantity? Tony reminded the committee the Municipal Planning Code determines what the committee can and can't do. He also indicated WPT does not regulate water extraction only issues the zoning permit. The PA Dept. of Environmental Resources (DEP), the PA Department of Agriculture (DA), and the Delaware River Basin Commission (DRBC) regulates water extraction.
3. PA Constitution, Article I, which was provided as a handout, was reviewed and discussed.

#### **V. Agenda Item: Nuts and Bolts**

1. Section 1.2 of the current ordinance was discussed. The discussion was about where water extraction should take place in the Township. Limit to an agricultural zone, not in a conservation zone, and possibly in an industrial zone-if realistic. Tony suggested overlay zoning districts with industrial areas along state roads.

Chairperson- This para holds keys to permit process, needs to be clear. DEP, AF, DRBA – who does what to whom, plus the WPT process, exactly which document, must be clear, step by step, which specific document under what conditions, Chair says needs more time for hearings, public review. Tony says can't be done because regulations. We agreed to revisit. Jay volunteered to put together a chart of the process, steps, Planning Commission, ZHB roles, Land Development Plan, key words and terms. Every step A – Z, from first contact with township to fully permitted and running.

2. Review of section 1.9 of the current ordinance which indicates the "minimum lot area required for an extraction permit is 100 acres." Jamie said a legal source told him land size is indefensible, and will fall back on the township in legal costs down the road. Jay agreed. Tony said the 100 came from 2 or 3 other townships. Chairperson said easy to cut and paste, 100 sounds "good" but is not tied to geology. Somebody with a huge spring on 82 acres is excluded? We agreed to come back to this.
3. The committee discussed the issue regarding trucking/roads. Very important element requires much focus. Because of the amount of truck traffic 24/7, a pumping station, truck loading area, noise from this operation and township roads not built to withstand large water trucks have created an issue for residents who live near the facility at Fort Franklin and have reduced their quality of life. In addition, no one knows how this operation has affected the property values of the residents who live near extraction sites. Dave suggested this type of operation should be located in an industrial district in WPT. Tony volunteered to make presentation at next meeting about overlay district, truck traffic.

**VI. Other**

- Agendas and Minutes of all meeting will be posted on the WPT Website.
- Next meeting will be held on Monday, October 23, 2017 at the WPT Annex. The meeting will begin at 7:00 p.m.

**VII. Motion to Adjourn**

A motion was made and seconded to adjourn the meeting at 9:25 p.m.  
Motion carried.



## **APPROVED MINUTES**

### **West Penn Township (WPT) Water Resources & Planning Steering Committee October 23, 2017**

#### **I. Call to Order**

A meeting of the West Penn Township (WPT) Water Resources and Planning Steering Committee was held at the West Penn Township Annex Building on October 23, 2017. The meeting was called to order at 7:00 p.m. by the Chairperson, Theodore Rosen.

Committee members in attendance included Ted Bogosh (Board of Supervisors), Timothy Houser, James Land, Jr., David Lapinsky, Elaine Lapinsky, Allison McArdle, Dean Meiser (Planning Commission), Bob Miller (Planning Commission), Theodore Rosen, and Larry Stival.

Committee members absent were James Dean (Board of Supervisors) and Jamie Schellhammer.

Guests included Gabriele Feibert, RoseAnne Georgiades (Planning Commission), and Tony Prudenti (Board of Supervisors)

#### **II. Review and Approval of the Minutes of the 10/9/2017 WPT Water Resources and Planning Steering Committee Meeting**

A motion was made and seconded to approve the minutes of the October 9, 2017 meeting as presented with modifications. Motion Carried.

#### **III. Agenda Item: What other Townships Do**

1. The Chairperson distributed a spreadsheet that he and Dave developed that provided an overview for comparison of water extraction ordinances from five townships in Pennsylvania and one out-of-state town. The Pennsylvania Townships were: West Penn, Eldred, Lynn, S. Manheim, and W. Brunswick. The town was Hancock, Maine. Dave distributed a worksheet he developed which provided a framework for the Committee to follow when comparing other water extraction ordinances with the WPT ordinance.
2. In reviewing the water extraction ordinances, the committee agreed to the following:
  - a. A preamble (purpose) will be written for the WPT ordinance that will include references to the legal authority permitted by law to PA municipalities with regard to ordinances. Tony agreed to rewrite the Preamble which was presented by Dave at the meeting.
  - b. The Committee agreed to hold on a decision in regard to the permits required to be submitted to WPT by a water extractor applicant. James indicated the DEP permit requires the water extraction operator to be up and running prior to the township issuing a permit.

3. A discussion took place about the definition of water. Is it an agricultural product or a mineral? James said in PA it is an agricultural product. Dave indicated the strict definition of agriculture does not include water. Much discussion took place about this definition. Ted agreed to contact Senator Argall's office to inquire about the definition of water in the Commonwealth of Pennsylvania. James offered to provide court cases to the Committee that define water as an agricultural product.

#### **IV. Agenda Item: Trucks & Roads, Zoning Overlay**

1. The Committee discussed zoning as it applies to water extraction activity. Tony produced and reviewed the following zoning maps for WPT: map of WPT, zoning districts, major roads, soils map, steep slopes map, agricultural security areas, and an overlay map.
2. The Committee discussed the possibility of changing the zoning areas where water extraction could take place in WPT. Any potential change would not affect extraction/withdrawal being done by farmers for agricultural use. Any potential change in zoning would be specifically for water withdrawal being done for sale off-premise.
3. Concerns were raised about truck traffic and safety on local roads and how a relocation of truck traffic to major (arterial roads ) might address concerns of residents who live near extraction sites. The Committee also agreed water extraction should not take place in a conservation district.
4. The Committee discussed the potential for overlay districts in WPT. Tony indicated these districts cross over lines of other zoning districts and are located around major highways and are locally controlled. Tony said overlay districts would be used for "intensive use." Bob and Larry discussed how overlay district zoning might provide protections for residents. Bob suggested the "zone of influence" be increased to one mile.

#### **5. Agenda Item: WPT Permit Process**

James was scheduled to present information about the permit process. The Committee did not have time to discuss this agenda item in detail. This item will be on the agenda for the next meeting.

#### **6. Agenda Item: Next Meeting and Agenda**

- Tony – Preamble
- Ted- Report on contact made with Senator Argall's office about the definition of agriculture in PA.
- James- Court case(s) on water defined as agriculture and a review of the permit process.
- Continue with review and discussion of water extraction comparison chart and worksheet.
- Potential speakers to present to the Committee.
- The next meeting is scheduled to take place at the WPT Annex on Monday, November 13, 2017. The meeting will begin at 7:00 p.m.
- Future meeting dates as follows: Nov. 27, Dec. 11, Jan. 15, and Jan. 29.

**Reminders:**

- Agendas and Minutes of all meetings will be posted on the WPT Website.
- Encourage residents of WPT to attend the Water resources & Planning Committee Meetings.

**7. Motion to Adjourn**

A motion was made and seconded to adjourn the meeting at 9:30 p.m.  
Motion carried.

**Respectfully submitted by David Lapinsky, Secretary.**



## **APPROVED MINUTES**

### **West Penn Township (WPT)**

### **Water Resources & Planning Steering Committee**

**November 13, 2017**

#### **I. Call to Order**

A meeting of the West Penn Township (WPT) Water Resources and Planning Steering Committee was held at the West Penn Township Annex Building on November 13, 2017. The Chairperson, Theodore Rosen, called the meeting to order at 7:00 p.m.

Committee members in attendance included Ted Bogosh and James Dean (Board of Supervisors), James Land, Jr., David Lapinsky, Elaine Lapinsky, Dean Meiser (Planning Commission), Bob Miller (Planning Commission), Theodore Rosen, and Larry Stival.

Committee members absent were Tim Houser, Allison McArdle, and Jamie Schellhammer.

Guests included Gabriele Feibert and Tony Prudenti (Board of Supervisors).

#### **II. Review and Approval of the Minutes of the 10/23/2017 WPT Water Resources and Planning Steering Committee Meeting**

A motion was made and seconded to approve the minutes of the October 23, 2017 meeting as presented with modifications. Motion Carried.

#### **III. Agenda Item: Zoning Options**

1. The Chairperson opened the meeting with an overview of the work completed by the Committee to date and indicated the focus of the Committee should be on zoning options that he called the "linchpin" to a new water extraction ordinance. Reference was made to a West Penn Zoning map which was one of the handouts distributed by the Chairperson and to a meeting held with representatives of the Eldred Township, PA, Planning Commission. An additional handout distributed by the Chairperson was a copy of the Eldred Township Zoning Ordinance that put water extraction in their industrial zone and amended their definition of water extraction/bottling. The Chairman said while it may have been written with good intentions the current WPT extraction ordinance has many shortcomings and that it was more like Swiss cheese and easy for an extractor to work around because the current ordinance lacks clarity and specificity. Whatever, the details, he said, it boils down to picking the correct zone which he believes is the EI zone.
2. The members engaged in a discussion about the possible zoning options for water extraction to take place in WPT. This discussion included the potential for Overlay Zoning Districts, General Industrial (GI) and Extractive Industrial (EI). The Chairperson recommended water extraction be placed into the EI district because it is extraction and

industrial and the area is used to heavy trucks. The EI has 600+ acres of land. Currently water extraction is a use permitted by Special Exception in the Conservation (CN) and Agricultural (AG) Districts. This information prompted a lengthy discussion among the members about the pros and cons of permitting water extraction in the EI, GI and possibly overlay districts. Bob M said we need to be concerned about setting a precedent by placing water extraction in an extraction industrial zone. This discussion included, but was not limited to: moving extraction out of the AG and CN district and how this might affect farmers; the placement of truck loading stations; access to water in each of the zoning districts; placement of trucking terminals on state roads; and the effects of extraction operations on residents who live near these zoning areas. Bob M said water extraction is a business and as such creates jobs. James L said his operation at Fort Franklin creates 44 jobs. The Chairman expressed skepticism that this figure is correct.

3. The Committee continued a discussion about the definition of water, which was also discussed at the October 23, 2107 meeting. This discussion focused on if water is agriculture, a mineral, food, or something else? Ted B. indicated he was in contact with Senator Argall's Office and requested his Office to provide the Commonwealth's definition of water but the Senator's office did not get back to him. James L said there was no question in his mind that water is an agricultural product. The chairman said the Township has the authority to define water as it likes and to place water extraction where it is appropriate for the community. David L. read a definition of agriculture found in a Bethel Township, Berks County, PA Ordinance. This definition read as follows: "Agriculture is the cultivation of soil and the raising and harvesting of the products of the soil, including, but not limited to, animal or fowl, husbandry or dairy farming." Based on this definition, David L. said water is not agriculture. He recommended to the committee that WPT should define water as a non-agricultural product in the water extraction ordinance. James D. requested the Chairperson or Secretary to send a letter to Senator's Argall's Office on behalf of the Committee to obtain the Commonwealth's definition of water. Neither responded to the request. David L said that the PA Water Resources Planning Act and Article 1, Section 27 of the PA Constitution addresses the right to clean air, pure water, and other environmental resources in the Commonwealth.
4. At 8:20 p.m., James L. left the meeting citing a discussion, which, in his opinion, dealt with current litigation. This discussion was about the importance of the Committee recognizing the negative effects that water extraction has had on residents who live near the water extraction site at Fort Franklin off Blue Mountain Rd which is located in an agricultural/conservation zone and about developing an ordinance to protect WPT residents from any negative effects as a result of water extraction. James L. returned to the meeting after approximately a ten-minute absence.
5. There was discussion about the importance on requiring water tankers to load only from State roads no matter where the location of the wells are.



Larry said the Committee should come up with specific details such as minimum size, buffers, setbacks, entry and exit roads, acceptable noise levels and similar design criteria. Ted R said he had looked on Google maps at the Nestle/Deer Park facility in Lynn Twp and the terminal area has about 650' road footage along Mountain Rd and about 300' deep. Ted R suggested a terminal area of 650' within an overall parcel allowing a sound and visual buffer of 2000' along a State road and 300' deep. Larry, Bob and Jim said that 2000' of road frontage is too big but in the ensuing discussion further refinement was inconclusive and left for discussion at another meeting. Larry S. said terminals should be a minimum distance from one another, perhaps not less than 2 miles.

**IV. Agenda Item: White Paper on Water Extraction Ordinance**

Tony P. led a review and discussion of the "White Paper" developed by Ted R. who said that the list is not all encompassing and should be reviewed by an outside legal expert specialized in water resources. Revisions to this document were made with input from the entire Committee. The revisions are noted below.

**Special Exception:**

- a. Must own entire watershed-deleted. James L said the term "watershed" only refers to large areas like the "Delaware River Watershed" or "Susquehanna River Watershed" and therefore this requirement and term is incorrect. The Chairman said other ordinances, Eldred Township in particular, use the term "must purchase the entire watershed", and that "watershed" can be something small or large depending on circumstances. James L said the Chairman's use of the word is incorrect. James D said we should defer to James L because he is in the business and must therefore know better than the Chairman.
- b. Zone of influence to be determined by a licensed hydro geologist.
- c. Private well protection agreements within Zone of Influence. Applicant is required to comply with WPT zoning ordinance.
- d. Traffic, noise, vibration, and lighting compensation to residents by applicant.
- e. Terminals on state roads.
- f. Metered terminals, WTP officials- zoning officer (?).
- g. Economic development consideration to benefit township. Delete 3/10ths cents per gallon (?).
- h. Provide company details, owners, operator, staff, haulers, truck routes, and land development plans.
- i. Provide list and inform all private wells in Zone of Influence.
- j. WPT advises by mail all private well owners in Zone of Influence.
- k. Advance payment of \$100,000 to WPT for outside experts to be placed in escrow account. Funds used for expenses incurred by WPT.
- l. Submit preliminary land development plan to WPT Planning Commission (PC).

### **To receive Use and Occupancy Permit**

- a. Use and occupancy permit subject to annual review and approval by the PC.
- b. Submit for public and expert review and PC approval of final land development plan and impact study based on standards and criteria.
- c. Submit copy of DEP letter if permit is required or not.
- d. No plan approval if a DEP permit or letter is not submitted to PC.
- e. PC recommends to Board of Supervisors to approve/disapprove renewal application.
- f. Each year \$10,000 renewal fee for permit.

**Appoint Water Trustees—Deleted.** Bob M said creating a group of Water Trustees sounded bureaucratic to him and created another layer of bureaucracy. The Chairman said such a specialized standing committee would act as an ongoing resource to the Township for keeping up to date and informed about water resource management. Tony P said there are many other issues facing the Township. Dean M said the Planning Commission always holds hearings about important subjects and listens “very carefully to what the public says and takes it into consideration.”

### **Complimentary actions needed to reinforce the Water Extraction Ordinance**

1. Coordination with other townships is ongoing with zoning.
2. WPT to redo Zoning Ordinance.
3. Integrate, strengthen water resources protection as a priority into the WPT Comprehensive Plan and the Schuylkill County Comprehensive Plan.

**The meeting was adjourned at 9:45 p.m.**

### **Next Meeting:**

The next meeting is scheduled for Monday, November 27, 2017. The meeting will begin at 7:00 p.m. and will be held at the West Penn Township Annex Building.

Respectfully submitted by David Lapinsky, Secretary.



## MINUTES

**West Penn Township (WPT)  
Water Resources & Planning Steering Committee  
December 11, 2017**

**I. Call to Order**

A meeting of the West Penn Township (WPT) Water Resources and Planning Steering Committee was held at the West Penn Township Annex Building on December 11, 2017. The Chairperson, Theodore Rosen, called the meeting to order at 7:00 p.m.

Committee members in attendance included Ted Bogosh and James Dean (Board of Supervisors), RoseAnne Georgiades (Planning Commission), Timothy Houser (Board of Supervisor Elect), James Land, Jr., David Lapinsky, Elaine Lapinsky, Allison McArdle, Bob Miller (Planning Commission), Theodore Rosen, Jamie Schellhammer, and Larry Stival. Committee members absent were Dean Meiser (Planning Commission). Guests included Helene Land and Tony Prudenti (Board of Supervisors).

**II. Review and Approval of the Minutes of the 11/27/2017 WPT Water Resources and Planning Steering Committee Meeting**

A motion was made and seconded to approve the minutes of the November 27, 2017 meeting as presented with modifications. Motion Carried.

**III. Agenda Item: Letter and Addendum from the Committee to the WPT Planning Commission(PC)**

1. Ted R. (Chairperson) opened the meeting by informing the committee the expectation for the meeting will be to review the draft letter and addendum provided to the committee for review. He indicated this letter and addendum will include the main recommendations and a list of other items agreed upon by the committee to send to the PC for their consideration. The final, approved letter will be signed by the committee members who approved of the recommendations included in the letter and addendum. Ted R. indicated the completion of this task will conclude the work of the committee.
2. James L. referenced a second letter that he developed and sent via email to the committee members on December 11, a few hours prior to the meeting. Several members indicated they did not have a chance to review the letter. Copies of the letter were distributed to the committee members. James L. indicated the changes he made to the letter developed by Ted R. were done to recognize a Pennsylvania Superior court decision (Locust Township Case) made on July 17, 2012. The case indicated the regulation of water extraction is preempted under the law. James L. also indicated the Bethel Township zoning ordinance that was cited as a basis for the committee's recommendation is currently under review by the PA Attorney general's office as a violation of the preemption language found in Act 220.

Tony said the municipal code permits the township to identify zoning districts for water extraction. James L. said the township does not have

the authority to regulate the withdrawal of water. Bob said the township does have a say in regard to land use. Jamie indicated Act 220 defines normal farming operations as agriculture and water extraction is not considered agriculture and is (therefore) not normal farming operations. James D. said the municipal planning code requires the township to provide a reliable supply of water. Bob said WPT does not have to guarantee anyone they will find water in the township. He also said if we cannot restrict water to zones discussed by the committee we want heavy trucks off township roads. Tony suggested we use township funds to hire an attorney to deal with these issues. James L. said an attorney will cost the township \$450 - \$500 an hour. Timothy H. recommended to get a legal opinion about placing water extraction in a specific zoning area. He also said placing a loading station on a main highway does not throw out zoning issues.

James D. reminded the committee their recommendations go to the PC and the PC recommendations go to the Board of Supervisors. Bob and Ted B. said the committee is talking about the future and not decisions made in the past (regarding water extraction and permits).

Larry said loading station on a state road has nothing to do with the location of the wells. James L. said loading stations on state roads will stand. Jamie asked if the exception to the ordinance can be challenged.

3. Larry suggested to the committee to recommend to the PC to first address the location of the loading stations to get something approved in a short period of time. He indicated it could take a long time for the entire ordinance to be decided upon and in the meantime nothing will change. RoseAnne agreed acting on the location of the loading station should be done first. Tony said it will cost the township \$3000-\$4000 to enact any changes to the ordinance and then the same amount when the other recommendations to the ordinance are done at a later date. James D. said \$4000 to save a life is worth it.
4. Ted R. asked for a motion to send both of the letters (the letter developed by the chairperson and the letter developed by James L. as well and the addendum) to the PC. A motion was made and seconded. Ted R. said each committee member would need to sign the letter(s) that he or she approves. Prior to the vote, Ted R. asked if anyone had any comments about their vote. Ted B. said he was against removing tankers from the township roads because it would affect farmers and the township would lose the liquid fuel tax. Dave L. said his vote reflects his concern for the township residents who have been negatively affected by the truck traffic and the extraction operation at Fort Franklin.
5. The letters and the addendum were passed around to each committee member for their signature of approval. The chairperson indicated he would send a copy of the letters and addendum to the PC for possible inclusion on the agenda for their December 19<sup>th</sup> meeting.

**The meeting was adjourned at 8:30 p.m.**



11. There was a short discussion about whether water is an agricultural product. The Chairman said the discussion is not relevant, whether water is a "This" or a "That". The Township has the authority to define water as it wishes. If WPT says water is a "This", and the rest of Pennsylvania says it is a "That", and there is a court case against WPT, the judge would be obligated to follow WPT's definition. The Committee agreed that whether water is a fruit or is not a fruit, it has no bearing on which zone water extraction is placed. Allison cited two court cases in Lebanon County where the judges followed the Townships' definitions of water extraction.
12. The committee members were asked to vote on permitting water extraction in four zoning districts in WPT: Extraction Industry (EI) General Industrial (GI); Light Industrial (LI); and Highway Commercial (HC), and no longer permitting water extraction to take place in the Agriculture (AG) and Conservation (CN) zones.

Ted, Dave, Larry, Bob, Elaine, Gabriele, Allison, and Tony voted in favor of:

- a) Permitting water extraction only in the EI, GI, LI and HC zones.
- b) No longer permitting water extraction in the AG and CN zones.
- c) Permitting water tankers to be filled at loading stations located only on State roads, prohibiting water tankers from all Township roads.

James voted in favor of truck loading stations in the EI, GI, LI and HC zones. James voted against permitting extraction only in the EI, GI, LI and HC zones and no longer permitting water extraction in the AG and CN zones.

No opinion: RoseAnne

13. Additional discussion included: a) increasing the zone of influence to one mile; b) requiring written, individual well agreements between the water extractors and well owners within the zone of influence; c) making the appropriate adjustments in the WPT zoning ordinance if any changes are approved by the Planning Commission in regard to moving water extraction to the four districts; and a revising the definition for water extraction.
14. The Committee agreed that zoning and tankers/roads were the major issues for the Committee to address. All other topics related to a new water ordinance had been addressed by the Committee and should be compiled for the Planning Commission. Tony said the Board of Supervisors if not the Planning Commission would likely retain an outside lawyer expert in water resources and public law to draft/review the new ordinance. The Committee agreed that it had learned that water law is complex and that the Township's retaining an expert lawyer upfront would save the Township difficulties and expenses down the road. Tony suggested the Committee draft a letter to the Planning Commission with its main recommendations and a list of other items that should be considered by the Planning Commission. Ted said he would

draft the letter and list and circulate for review by email before the next and final meeting in December 11. It was agreed the next meeting will comprise reviewing these minutes, and reviewing and signing the Committee's letter to the Planning Commission, and thus conclude the work of this committee.

**The meeting was adjourned at 9:00 p.m.**



## **APPROVED MINUTES**

### **West Penn Township (WPT) Water Resources & Planning Steering Committee November 27, 2017**

#### **I. Call to Order**

A meeting of the West Penn Township (WPT) Water Resources and Planning Steering Committee was held at the West Penn Township Annex Building on November 13, 2017. The Chairperson, Theodore Rosen, called the meeting to order at 7:00 p.m.

Committee members in attendance included James Land, Jr., David Lapinsky, Elaine Lapinsky, Allison McArdle, Bob Miller (Planning Commission), Theodore Rosen, and Larry Stival.

Committee members absent were Ted Bogash and James Dean (Board of Supervisors), Tim Houser, Dean Meiser (Planning Commission), and Jamie Schellhammer.

Guests included Gabriele Feibert, Tony Prudenti (Board of Supervisors), and RoseAnne Georgiades (Planning Commission).

#### **II. Review and Approval of the Minutes of the 11/13/2017 WPT Water Resources and Planning Steering Committee Meeting**

A motion was made and seconded to approve the minutes of the October 23, 2017 meeting as presented with modifications. Motion Carried.

#### **III. Agenda Item**

1. There was no prepared agenda for the meeting.
2. The Chairperson opened the meeting by discussing the importance of the committee identifying the zoning district(s) within WPT where water extraction can take place. He advocated that water extraction be permitted only in the Extractive Industry (EI) zone because water extraction is both extractive and an industry. A lengthy discussion took place about the possibilities to move extraction out of agricultural and conservation districts to one or more of the industrial zones.
3. Tony said another consideration should be finding a way to charge a fee based on gallons or access, or oblige the developer to make a contribution that would broadly benefit the economic development of WPT. Tony cited a township in NJ where an incoming industrial project donated a \$375,000 new fire truck to the township. Tony said such a contribution could take other forms, too, not just equipment.
4. Bob asked if WPT can grant a right-of-way to run water pipes from extraction sites in AG and CN districts to state roads? Can WPT charge a fee for the use of township right-of-way? Tony said the right-of-way can

only be used for public utilities such as phone and electrical cables and public water supply and sewerage, but not for a private use. Tony said he was fairly sure access for a private pipeline would need property owners' permission to grant the township or private company a right-of-way. It was agreed that this subject required legal assistance, and study by the Planning Commission.

5. Tony said changing the zoning for water extraction from the Agriculture (AG) and Conservation (CN) zones to Extraction Industry (EI) General Industrial (GI); Light Industrial (LI); and Highway Commercial (HC) zones would not create a hardship for people near those zones because those zones have been around for 30 or more years. He said it would be a hardship if someone living in the AG or CN zone suddenly has an industrial operation as a neighbor and the noise and traffic that would cause. Ted said AG and CN zones comprise 90% or more of the Township. The EI, GI, LI, and HC zones comprise less than 5%.
6. The Committee agreed the loading area where water tankers are filled should be called "loading stations" so as not to be confused with "truck terminals". Larry said great care should be taken in developing the specifications and standards for the loading stations, and that there should be a minimum distance between loading stations, such as 2 miles.
7. The Committee agreed the loading stations for water tankers should be located only on State roads (309, 443, 895) and water tankers should be prohibited from using Township roads at all. The loading stations should be clearly defined as to appearance, buffer zones, and acceleration and deceleration lanes. Tony said PENNDOT has standards to receive a Highway Occupancy Permit, which takes in grade, line of sight and many other criteria.
8. James L. said if you try to regulate water with an ordinance it will affect existing businesses and farmers. Bob and Ted disagreed saying this ordinance is only for the extraction of water for sale off premises for human consumption. The water extraction ordinance will have no effect on existing businesses or farmers.
9. Bob said water extraction is a production operation, a product with a supply chain, and therefore should be permitted in industrial zones only. James L. agreed that water extraction is a production operation but that it should be permitted anywhere. Bob said it was the obligation of the Township to enforce the intent of the zoning to put industry in the industry zone and so forth. He pointed out that he could only speak for himself but that he was fairly confident that the other members of the Planning Commission would share this view.
10. Tony recommended that the ordinance should define "water extraction" as "water used for human consumption." Ted suggested adding "off premises" "for sale" and "withdrawal". The Committee agreed to define "water extraction" as "water withdrawal sold for human consumption off premises."