

Franklin Township Land Use Board
Meeting Minutes
May 5, 2022

The Franklin Township (Warren County) Land Use Board met for their regular meeting on Thursday, May 7, 2022. Chairman H. Meltzer called the meeting to order at 7:35 p.m. and declared all aspects of the Open Public Meeting Act had been met by posting a notice of this meeting on the Municipal Bulletin board and providing a copy to the municipal clerk. Advertisement of notice was posted in the Star Ledger of Newark, NJ and the Express Times of Easton, Pa. as well as the Franklin Township website.

The Flag Salute was led by Chairman Meltzer.

ROLL CALL: Mr. Corde (7:45), Mr. Meltzer, Mr. Sigler, Mr. Onembo, Dep. Mayor Guth, Mr. Kubik, Mr. Balogh

Members Absent: Mr. Butler, Mr. Handel, Mr. Herzer, Mr. Santini

Also Present: Attorney Schneider, Engineer Finelli

MINUTES: Motion by Mr. Meltzer, seconded by Mr. Onembo to approve the minutes dated April 7, 2022. Roll Call: Ayes: Mr. Meltzer, Mr. Sigler, Mr. Onembo, Mr. Guth, Mr. Balogh

NEW BUSINESS:

Elizabethtown Gas Acquisition Corp. Renewable Natural Gas Receiving Station

The continuation of hearing for consideration of changes requested in their letter dated March 31, 2022 was held at this time. Mr. Valenti was present representing the applicant. He indicated that this application relates to the board approval given by the board in 2021. It relates to the receiving station area for the renewal of natural gas. They are present tonight requesting the board review the screening plan they have produced and implemented on the property and to request the boards modification of condition #7 in the boards approval as it relates to the hours of when deliveries would occur and the requirement of on site personnel. He referred to the resolution that was adopted to the board that it indicated that this is a permitted use in the industrial zone and this is not a warehouse. You will not have several trucks coming and going every day. What has not changed is what the testimony was at the last meeting, they are talking about one truck every two days. No more than 4 trucks in a week. He said that this is important to understand in the context of the overall application. He said there is a need for more energy sources. This proposal is about having an energy source of dairy cow manure. The goal of this project is to increase the ability to have this renewable energy source. He noted some things that will not change. The truck movements, no trucks will be idling there, the entire process of converting the cow manure to renewable natural gas will no occur here it is totally done offsite at a farm in Connecticut. Here the truck will arrive and deliver the natural gas here through trained drivers, through trucks that have been modernized and equipped to the way that it could be shot with a bullet and not explode. Representatives from REV will testify based on their knowledge of this process and other projects that they have developed that are similar. There has been additional information learned since they first appeared and now they realize they need to ask the board to review the time limit rather than try to side step it. Before they invest money into this project they wanted to come in and tell you why they are requesting the hours be adjusted. Testimony will be provided. They will also provide testimony from Mike Scasafaro, Director of Engineering from Elizabethtown Gas who has testified before. He will testify again about all the safety provisions related to this facility and how they apply. Their Engineer Matt Beksel their professional engineer regarding the screening plan. They made provisions to address the concerns of the board and the neighbors with whom they have worked with. They are requesting that their screening plan be approved by the board and that the hours of operation and the requirement of outside personnel, 20%, which hasn't existed on 17 other site, has nothing to do with safety on this property so they are being asked to be excused from that as well.

Attorney Schneider explained that they are here because of under the municipal land use law any time an applicant seeks a modification of what is considered to be a material condition it has to come back before the board on notice to the public. Proper notice has been provided and he indicated that since they are seeking a modification of the condition and during the course of the witness they will presumably provide some understanding or testimony how often and what the anticipated hours would be so the board can focus to the extent that they may be inclined to grant relief know how often and what hours are being put up for consideration.

Engineer Beksel was sworn in by Mr. Schneider. Mr. Valenti indicated Mr. Beksel testified before the board on this matter in 2021 and at that time was accepted as an expert. Mr. Schneider stated there is no reason to hear the qualifications again.

Mr. Beksel has provided an additional landscape plan and indicated that he met with the adjacent property owners, the Pitorri's and Jim Kyle the Township Planner in mid-February to review the potential screening options at their property. He presented a plan to the board. They developed a tentative plan that was agreed to at that time to meeting and since then have met with a local landscaper to review the screening options that included the types of trees to plant. At the rear of the property they will provide 4 green arborvitaes as well as 5 Norway spruces. Two Douglas firs were planted along the sideline of the property to close up the tree line that existed. ETG also agreed to also install about 42 green arborvitaes along their property limits along the front of the facility along the fence line of the parking lot. The landscape plan dated 4/8/2022 presented was marked as Exhibit A-1. The trees have been installed to meet the spring planting season. Mr. Beksel went into detail on where and when things have been planted. Exhibit A-2 was presented that consisted of 3 photographs of the property as well as the trees planted on the neighbor's property. Mr. Corde arrived at this time and was brought up to speed on the matters before the board by Mr. Schneider at this time. There were no questions from the board or the public at this time.

Also from the resolution there were some other requirements that ETG had to comply with. They have submitted to the NJDEP a freshwater wetlands permit for the proposed work which is currently under review. The DEP has been on site yesterday. They also applied for the DEP flood hazard area applicability determination which was determined by the DEP that everything falls under the permit by rule so there is no formal application that needs to be submitted for the flood hazard area. They also submitted to the Upper Delaware Soil Conservation district for their soil disturbance permit. The application has been approved and will be provided.

Mr. Erland David Kailbourne was sworn in by Mr. Schneider. He is the CEO of a company called REV (Revolution). They are based in Ulysses, Pa. He described the process they have where dairy cow manure is converted into the renewable natural gas. This process is all done at the farm site in Connecticut. The gas will only be trucked into the Franklin Township site. He stated the site that will produce this for the Franklin site can produce one tractor trailer load of natural gas every 48-52 hours at normal efficiencies. He discussed some of the variables that would affect the production. One tanker is at the farm collecting the gas at all times. There is a second tanker either driving from the farm to the Franklin Township site, or sitting at that site unloading, or the driver would be taking the empty back to the farm and then they swap that position and they rotate that process throughout the term. Mr. Kailbourne was advised by ETG after this board's resolution that ETG had said that they can work with the 7 a.m.-7 p.m. M-F window. His response to that notice was that it is just not logistically possible because they only have 2 tankers. They make a load every 48-52 hours, so if you slip 4 hours 3 days in a row you have a 12-hour window that has been missed so there may be times that they cannot deliver between that 7 a.m.-7 p.m. M-F slot. There could be early morning times that they would have to make deliveries in. He said the travel between NJ and Connecticut is a highly travelled corridor and there are normal occurrences due to traffic, weather, closures that make it fairly impossible to get down to the minute plus the production window. They do their best job to do deliveries and pickups during daytime hours for safety issues. Approximately 800 homes would be serviced by this process. The unloading process is the tanker truck arrives, the driver does his safety inspection and paperwork. He explained the unloading process and

indicated there is really no noise and the truck is turned off. He indicated that he does not foresee any more growth that would require more deliveries. Mr. Valenti stated that they would stipulate that as a condition that it would only be trucks every 48-52 hours and no more than 4 in a week. Once the truck is on site it is approximately a 16-hour unload process. When the tanker and the truck arrive, the tanker is dropped, and it stays there and the tractor will leave. It takes about 8-16 hours for the tanker to unload into the pipeline. They are asking for 24-hour access for 1 truck roughly every 48 hours. Mr. Valenti stated that the facility does operate on a 24-hour basis because of emergency call outs. There are trucks and vehicles at that facility on a 24-hour basis 7 days a week. The trucks are equipped with OSHA back up beepers. Jim Onembo thinks this is a problem with a 24-hour operation. It was indicated that the trucks are always in a forward motion so they will not be backing up it is a drive through site. Mr. Pitorri, resident, stated that this is between 2 residential areas, it is a 24-hour site, and this would mean that there would be trucks driving right past his house during all hours of the night. There is a separate entrance currently used now. Driver training information was provided to the board by Mr. Kailbourne. He was asked to estimate how many trucks would be coming after 10 p.m. at night. Mr. Kailbourne suggested 25% would be late night after 10 p.m. Mr. Schneider asked if there was a revised lighting plan. Mr. Kailbourne stated he was under the assumption that the road is already lighted that they would be using. They would not be using high beams and there is a 5-mph speed limit. Mr. Valenti confirmed that Mr. Kailbourne's testimony is only one truck per week would be after 10 p.m. Mr. Kailbourne said that is reasonable and it depends on the logistics and the production from the cows. Mr. Schneider followed up on a question. He asked if the determination to use the farm in Connecticut a function of REV contractual relationship with the Connecticut farm, so theoretically, if there was the competitor REV would they conceivably be using a farm other than Connecticut that would not have that travel time. He rephrased his question to is the determination to use the farm in Connecticut with its potential travel issues is a function of who REV has contractual relationships with. Mr. Kailbourne stated that the project company being Oakridge Renewable Natural Gas who is owned by a ETG affiliate has the relationship. Mr. Schneider stated so the related entity of ETG is the one who is contracting with the farm in Connecticut. Mr. Kailbourne is just the logistical entity that is providing for the transport and the related operations in getting the manure processed and to the Franklin ETG location. Mr. Kailbourne said yes they are the transportation provider for that renewable natural gas project. They are also the developer of the project. Mr. Schneider asked Mr. Kailbourne and Mr. Beksell what other facilities that they operate, other than Franklin, do they all use the Connecticut farm for this purpose. Mr. Valenti stated no, the other 17 stations that ETG owns in NJ does not use that farm. Mr. Finelli asked if that farm in Connecticut with 3500 cows is earmarked for the production of the manure solely for this site. Mr. Kailbourne said that is his understanding. He stated in the commercialization rules of that gas you have to have a dedicated site and a dedicated meter and you have to meet certain pipeline requirements. This facility meets those requirements to adhere to that so as a developer as they build the projects around the country you have 1 farm usually dedicated to 1 injection facility for the 20-year term. Each station has a dedicated farm for that specific location. This will be the first ETG facility to do this. Mr. Onembo asked if the board decided that the hours would stay the same. How do they modify the operation and address their contract? Mr. Kailbourne stated it would be a breach of a contract and there was a misunderstanding of the hours. He has a 10-year contract now with that facility. Mr. Onembo stated they are right in between residential zones and he does not understand why the township should have to modify the hours which are pretty liberal to suit 2 – 3 a.m. where there are houses. He thinks ETG and REV should work out the problem and what is being asked is a little too much. Mr. Kailbourne just coming into the facility you are driving on state and county roads with other businesses on them. The board indicated that they are all working with time limits. Mr. Valenti stated that it is approximately 1-2 trucks per week and the project is in jeopardy of the time change request is not approved. Mr. Valenti asked Mr. Kailbourne to describe the safety features of the trucks and he did. Options were discussed between the board and Mr. Kailbourne.

A short break was taken at this time.

The meeting reconvened and Mr. Mike Scacifero, Director of Engineering for ETG was called by Mr. Valenti for testimony. He was sworn in by Mr. Schneider. Mr. Scacifero described his position at ETG. He was previously approved as an expert before this board. Mr. Valenti asked the question of approximately how many homes would this project serve. He indicated that the amount of the gas produced at the farm they believe it would heat up to 800 homes. He has determined that this site was ideal because of the size of the property and the proximity to their pipeline distribution and because of the truck maneuverability they needed the size of this property to do this application. Mr. Valenti asked if there has been a gas line there for decades, Mr. Scacifero said yes this site is a major supply source for ETG company since 1958. It is a gate station. It is a major source of natural gas supply through their distribution system. Mr. Valenti asked about the safety plan in place. Mr. Scacifero said it has been reviewed by the BPU. He described the different components of safety at the site and will remain in place. Full remote monitoring take place at the site. Mr. Corde asked why are we rehashing the safety testimony since it was all heard at the original meeting. He said this has already been talked about. The board all agreed that they heard this. Mr. Valenti asked Mr. Scacifero about the trucks entering the property adjacent to the residential properties. Mr. Valenti referred to 2 different access points to this property. Mr. Scacifero referred to the site plan plat for the property. He is proposing an alternate entrance to address the neighbor's comments. He was asked what the hours of operation are now. Mr. Scacifero stated it is a service center. There are employees, street technicians and crews work 7 a.m.-7 p.m. Mr. Schneider stated that the original condition aside from the hours of operation had provided it could only be when there was on site personnel. This coincides with the 7 a.m.-7 p.m. The applicant appears to be seeking relief beyond those times when there is personnel present now. Mr. Valenti stated they have heard the concerns about the trucks entering and leaving through the one driveway closest to the house. He is asking the board to consider an alternative for any trucks that would arrive outside of that window to enter on the other side of the property which is the main entrance. This could be used to bring the trucks in and allow for all forward motion. The reason for the two driveways originally is to segregate the office personnel and day to day use vehicles from the other operations of the company. The driver will be training and qualified to use that gate after hours. Mr. Corde would like a lock out on the south gate after hours. The main building will offer more of a buffer also. Mr. Valenti said they are offering this alternative to address the boards concerns.

The meeting was opened to the public at this time.

Mr. Pitorri asked if there is any potential for scale up in the future with more trucks. Mr. Valenti stated that this is the only application for this site and there will not be more than 4 trucks per week going to this site for the RNG.

There were not any other public comments heard at this time.

Mr. Valenti summarized that the site has been operating for decades as good neighbors. This is a new project that is in the forefront of a goal to reduce energy emissions from natural resources. This particular site with its acreage and its location is the site for this operation. The natural gas industry has its enemies on a national level. Our Governor has suggested that we be all electric in a certain time. He said they know that the ETG attempt to make renewable natural gas, energies from this source, is very important for ETG because this is a win win situation for those people who know that natural gas as a renewable resource is good for the future. You also heard that this particular farm can't produce more than those 2 trucks. They are proposing only no more than 4 trucks a week. This is a very large investment being taken in a new technology that hopefully is the future, but now it is very limited in scope at this facility. Mr. Kilbourne testified that there will be only one truck outside the 7 a.m.-7 p.m. time frame per week. It is in their best interest to keep it in that window. They are willing to provide the alternate access outside of the 7 a.m.-7 p.m. hours. They have presented a landscaping plan and have shown how they work with the neighbors and the Township professionals. He stated they have been a good neighbor. They wouldn't be here tonight if they didn't need this for this particular operation to make it a go. They appreciate the boards time and efforts and thank you for your consideration.

Mr. Schneider said it really is not a legal matter. He commented the board imposed a condition last time respectfully based on what the applicant stipulated was acceptable and what they thought was accurate at the time and subsequently learned that that condition could not be complied with. That is his perception and he thinks the board generally has a right to impose reasonable conditions in conjunction with its grant of site plan conditions and did so. They have to balance now is whether you agree with it or not there is a state planning objective that certifiable is renewable energy. You have to balance the objectives that would be served by advancing renewable energy vs. whatever detriments you conclude, if any, relate to the relief of the condition beyond the hours of 7 a.m.-7 p.m. and whether the limited number of the visits with the alternate access mitigates the request for relief.

Mr. Corde stated he is concerned about the trucks getting into a cycle when the trucks end up in a nighttime cycle which could take weeks to get out of that cycle. Mr. Kilbourne stated that is highly unlikely to occur and explained the ways to alleviate that. Mr. Corde asked if there was a financial incentive for the drivers to drive during the day. Mr. Kilbourne said they are salaried drivers.

Mr. Sigler asked if they could shave to get back on schedule why can't they shave to keep it within 7 a.m.-7 p.m. Mr. Kilbourne said they will work hard to do that but he wanted to be transparent because he knows that he will have to make deliveries outside of the 7 a.m. – 7 p.m.

Mr. Onembo asked about the concern of truck noise. He said monumentally at 7 p.m. ETG is closed, but now that all goes away, and it will be open beyond the 7 p.m. which it has been traditionally closed, but now it's open. Mr. Valenti stated that it would be a condition that from 7 p.m. – 7 a.m. they will use the alternate driveway. No more than 4 trucks a week.

Mr. Guth stated he sees the real conclusion is the make the investment of a 3rd truck to keep them in the 7 a.m.-7 p.m. time frame. He indicated all the problems that could occur.

Mr. Valenti stated if they are stuck with those hours the project will not work.

Mr. Valenti asked if the alternate access way will open the door for the requested longer hours. Mr. Guth and Mr. Onembo stated they didn't think that it does. Mr. Onembo stated that the issues are outside of the hours, nobody is on site and someone is unlocking the gate. Mr. Corde thinks it does help with the noise with the neighbors but he agrees with Mr. Guth and Mr. Onembo about the hours.

Mr. Meltzer said he thinks that the basic problem is it wasn't taken into account originally and that it was to be 7-7 5 day a week not 7 days and consequently you are always against that and all other industrial uses are 5 days a week 7-4.

Mr. Onembo asked how long does the truck swap take? Mr. Kilbourne stated about less than 30 minutes including the safety inspection and paperwork.

Mr. Valenti stated that this has requirements that are different in its operation that are different than a warehouse, it's not nearly as frequent truck deliveries as a warehouse or wholesaler that are permitted uses in the zone. They know there are situations that will go beyond the 7-7 and are talking about ideally once a week to service a public utility.

Discussed the idea of the alternate gate. Mr. Corde reviewed that idea and how that would work. Mr. Corde suggested 7 a.m. – 7 p.m. use the south gate, after that the main gate becomes the access point until 7 a.m. Discussion amongst the board members took place. The 7 days per week is a concern. Mr. Valenti indicated the main gate would be used after 7 p.m. M-F and then on weekends during all hours.

Further discussion took place amongst the board regarding the request and its effect.

Mr. Valenti stated that the industrial zone does not have hour limits. As a result of that each company has a site plan that will regulate their hours. This is a site plan application request that is being asked to be modified.

A debated discussion continued regarding the trucking logistics and timeframes amongst the board members and the applicant.

Mr. Onembo made a motion to stay with the original plan of 7 a.m. – 7 p.m. Monday through Friday.

Mr. Valenti requested that this matter be carried until next month since this is a big business decision and they have things to discuss.

It was agreed that it will be continued without further notice to June 2, 2022 at 7:30 p.m. in person. No additional notice will be made.

Mr. Finelli stated that revised site plans for the Jesus Crist the Priest application were handed out. He spoke with the architect and this will be on next months agenda. There was no cover letter other than the plans. The board would like to receive electronic versions of the plans moving forward.

Mr. Schneider stated Mr. Onembo was contacted by a resident on Asbury Anderson Road. They would like to convert a single family home garage into an apartment. Mr. Schneider thinks it constitutes a 2 family dwelling. It would be a use variance. It becomes a two family and he needs a variance to permit a two family in a single family dwelling. Kelley will advise the resident on how to proceed.

Mr. Onembo stated he would like to deal with the freedom of expression sign issue. The sign ordinance is fine but this freedom of expression should be dealt with before mid-terms. Mr. Corde stated that the government shall pass no law contingent on the freedom of speech. Mr. Onembo asked about the size. That should be addressed. It needs to be codified. Need to look back to see what was discussed.

PUBLIC COMMENT:

The meeting was opened to the public at this time.

There were no comments at this time.

The public comment period was closed.

Mr. Guth recused himself from the meeting at this time.

EXECUTIVE SESSION:

Motion by Mr. Meltzer, seconded by Mr. Sigler to enter into executive session for the purpose of Broadway Energy vs. Franklin Township Land Use Board litigation matters. Motion was carried by all in favor.

The meeting was reopened to the public.

BILL PAYMENTS:

Motion by Mr. Meltzer, seconded by Mr. Sigler and carried by all in favor to pay bills presented.

ADJOURNMENT:

Motion by Mr. Onembo, seconded by Mr. Sigler and carried by all in favor to adjourn the meeting.

Respectfully submitted;

Kelley Smith, Land Use Board Secretary