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# Occupation Updates & Report on June 26 Ferguson Township Executive Session



**Nittany Valley Environmental Coalition**  
State College, PA

Jul 10, 2017 — By KW

Nittany Valley Water Coalition representatives continue to work toward setting up a meeting with Penn State executives and Toll Brothers executives, to identify and assess other parcels of Penn State-owned land in the Centre Region for a potential land swap that would meet the community's interest in protecting the Slab Cabin Run watershed from intensive development while still meeting Penn State's interest in profitable land sales and Toll Brothers interest in profitable student housing development.

In the last few weeks, several Penn State executives have stopped by the site to talk with occupiers, including Damon Sims, Vice President for Student Affairs, Zach Moore, Vice President for Government and Community Relations, and Steve Maruszewski, Assistant Vice President for Office of Physical Plant.

In other news:

Ferguson Township Board of Supervisors held an executive session on Monday, June 26 to discuss whether the Township should file a formal statement to the PA Supreme Court regarding the plaintiffs' appeal of the May 2017 Commonwealth Court ruling regarding the planned Toll Brothers/Penn State luxury student housing development near Whitehall Road and Blue Course Drive.

Supervisor Laura Dininni had proposed that the Township urge the Supreme Court to take up the appeal, on the grounds that the conflict between the November 16, 2015 PRD approval by the Township and the Township's own zoning laws has left Township staff – and municipalities across Pennsylvania – in a legally ambiguous position and weakened agricultural zoning as a land use planning tool.

Although the door to the meeting was closed, I was in the hall outside waiting to see if they would emerge and announce a public meeting in order to hold a vote. The supervisors and staff were speaking loudly because one participant was on speakerphone, so I heard most of the discussion.

Meeting participants included Board Chair Steve Miller, supervisors Laura Dininni and Rita Graef in person, supervisor Peter Buckland by telephone, Township Manager Dave Pribulka and Township Solicitor Joe Green. Supervisor Janet Whitaker was absent.

Pribulka summarized the problem nicely, explaining that the 5.5-acre parcel intended for stormwater detention, under the current legal circumstances, is simultaneously part of the adjacent Planned Resident Development (PRD) zoning, as an “accessory” to the student housing development, and also not part of the PRD, because it’s still zoned Rural Agricultural, although its planned use doesn’t comply with Township laws governing authorized uses of RA land. Township staff are therefore left in limbo if confronted with another land development plan making similar requests for similar land use plan approvals.

Supervisors Dininni and Buckland generally argued in favor of asking the Supreme Court to take up the case to provide clarification.

Chair Miller and Solicitor Green generally argued in favor of doing nothing, on the grounds that the Township “won” at the Commonwealth Court level. Green apparently prepared a recommendation memo to that effect.

Supervisor Graef generally tried to say nothing substantive while still saying words occasionally.

In the end, Buckland rang off before anyone could make a motion, and in the ensuing procedural discussion about whether to hold a vote and if so, whether to open the meeting to the public to witness the vote (in compliance with the PA Sunshine Act), Dininni was told that without decisive supervisor action to reverse Green’s recommendation as written in his memo, the solicitor’s recommendation would simply be implemented without a board vote.

And so it was.

I’ve since heard that about 50 concerned citizens sent emails to the board on this issue, which – if I understand correctly – is more than they’ve had on a single issue in quite awhile.

Through this event, we’ve learned yet another way that some local officials thwart the public interest in accountable, transparent, responsive governance – in this case, by presenting a solicitor’s memo as a default course of action, requiring a majority vote to override.

As always, this is useful information.

There is a large knowledge gap between what insiders know about how to rig procedures to obtain pre-selected outcomes, and what concerned citizens know about that topic, but concerned citizens are closing the gap fast.

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