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THE COUNCIL OF EAST COVENTRY TOWNSHIP
SPRING CITY, PENNSYLVANIA
SPECIAL BOS MEETING
MONDAY, OCTOBER 24, 2022

IN RE: NOLT TRUCKING/ SPRING CITY ACRES
SPRING CITY, PENNSYLVANIA

HELD BEFORE: W. ATLEE RINEHART, CHAIR,
KAREN NOCELLA, VICE CHAIR,
RAY KOLB,
ANTHONY DUFFY,
MICHAEL ALBERT MOYER

HELD AT: RIDGE FIRE COMPANY #1
480 RIDGE ROAD
SPRING CITY, PA 19475

ALSO PRESENT: CHRISTEN PIONZIO, ESQUIRE,
WILLIAM ROARK, ESQUIRE,
JOE CLEMENT, ESQUIRE,
DAVID KRAYNIK, TOWNSHIP MANAGER,
MARK HOSTERMAN, TOWNSHIP SOLICITOR

REPORTED BY: NICOLE NAGLE, COURT REPORTER

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5 CHAIRMAN RINEHART: Good evening. At
6 this time, I will turn the meeting over to our
7 solicitor, Mr. Hosterman.

8 MR. HOSTERMAN: Good evening. Can
9 everyone hear me? Is this better?

10 ALL: Yes.

11 MR. HOSTERMAN: Good evening, my name
12 is Mark Hosterman. And I am the solicitor for
13 East Coventry Township. I believe you're
14 probably familiar with the our Board of
15 Supervisors.

16 We have Supervisor Ray Kolb, Vice
17 Chairman Karen Nocella, our Chairman Atlee
18 Rinehart, Anthony Duffy and Mike Moyer.

19 Also from Wisler Pearlstine is one of
20 my law partners, Joe Clement, and township
21 manager Dave Kraynik.

22 I would also like to introduce some
23 participants tonight that we have from East
24 Vincent Township. We have the Township

1 manager Katherine Ricardo. Also Beth Flor,
2 Vice Chairman of the Board of Supervisors, and
3 Ed Dracup, who is a supervisor.

4 The Board of Supervisors, I'm dancing
5 with the mic here, met this evening in
6 executive session at 6:45 in order to seek the
7 privileged legal opinions of the solicitor and
8 counsel this evening.

9 At this time, I will go into the
10 announcement that everyone can see that is
11 here on your agenda, and we did receive a
12 letter from Nolt's attorney.

13 This meeting was supposed to be an
14 opportunity for all of the concerned residents
15 of East Coventry to address their concerns to
16 the applicant for this FPR facility.

17 We received this letter last week that
18 they would not be participating tonight. And
19 also that at this point in time, they are not
20 intending to move forward with construction,
21 but they did preface it by saying at this
22 point in time. So we don't know exactly what
23 that means.

24 We did work with this group in order to

1 enter into an agreement that we felt protected
2 the township by limiting the scope of the
3 operation.

4 The law is relatively clear on this
5 that this is a normal agricultural operation
6 and that we also received confirmation from
7 DEP that they consider this to be a normal
8 agricultural operation.

9 In any event, since they are not here
10 tonight we are going to move forward when we
11 get to the public comment and discussion
12 period. My partner Joe Clement will be the
13 moderator of that discussion.

14 And at this time, I think the Board is
15 very disappointed that no one from Nolt is
16 here this evening. And we have a few action
17 items with regard to this particular FPR
18 facility. And also FPR state of the law in
19 general in Pennsylvania that I believe the
20 Board of Supervisors would like to address.

21 Did you want the microphone, Mr. Moyer?

22 MR. MOYER: So everybody can hear.

23 Thank you, Mr. Hosterman. In light of Spring
24 City Acres failure to attend this special

1 meeting to discuss the proposed FPR facility,
2 and adequately address public concerns in it's
3 current intention not to move forward with
4 construction of the FPR facility, I move that
5 the Board of Supervisors rescind the agreement
6 between Spring City Acres and East Coventry
7 Township and further direct the zoning officer
8 to revoke the zoning permit for the facility.

9 CHAIRMAN RINEHART: Thank you, Mr.
10 Moyer. Do I hear a motion for a rescind?

11 MR. MOYER: Yes, I made the motion.

12 CHAIRMAN RINEHART: Did I have a
13 second?

14 MR. DUFFY: I'll second.

15 CHAIRMAN RINEHART: Mr. Duffy seconds.
16 All in favor say aye.

17 ALL: Aye.

18 CHAIRMAN RINEHART: Any oppose?
19 Hearing none, 5-0.

20 MR. MOYER: Mr. Chairman, I have
21 another motion. I move to authorize the
22 township solicitor to prepare letters for the
23 Board and Supervisors review addressed to
24 state Representative Tim Hennessy, state

1 Senator Katie Muth and Governor Tom Wolf
2 exposing the appalling lack of regulation of
3 FPR facilities in Pennsylvania and requesting
4 immediate action of lawmakers to regulate
5 these facilities, to protect the public
6 health, safety and welfare.

7 I so make that motion.

8 CHAIRMAN RINEHART: Thank you again,
9 Mr. Moyer. Mr. Moyer made the motion. Do I
10 hear a second for that motion?

11 MR. DUFFY: I'll second that.

12 CHAIRMAN RINEHART: Mr. Duffy seconds,
13 all in favor say aye.

14 ALL: Aye.

15 MR. RINEHART: Any opposed? Hearing
16 none, 5-0.

17 Okay, we're moving onto public comment
18 and discussions. I'm going to give that to
19 Counselor, Joe Clement.

20 MR. CLEMENT: We're moving on to the
21 public comment portion of this meeting. So
22 what we will ask is that anybody who would
23 like to a comment for or against anything
24 that's happened here this evening or the

1 operation that is now rescinded to use the
2 microphone that's up here to my left.

3 We ask that you limit your comment to
4 three minutes and try to not to repeat what
5 other people have already said. I do know
6 that there is a citizens group that was newly
7 formed. They are represented by Counsel in
8 the front row.

9 So Counsel I'll leave it to you to
10 start and won't limit you to three minutes
11 since you're representing so many people.

12 MS. PIONZIO: Good evening thank you.
13 My name is Christen Pionzio. I'm with
14 Hamburg, Rubin, Mullin, Maxwell and Lupin and
15 I am a land use and zoning attorney.

16 I'm here with my partner Bill Roark,
17 who specializes in environmental law and
18 agency law. Andy Kneeman is our associate
19 here as well.

20 We represent East Coventry Advocacy,
21 it's a 501C4 group that is interested in
22 bettering the lives here of East Coventry and
23 to seek information as this process and any
24 other future process moves forward.

1 The group now is about 250 people who
2 are a part of our organization. And I am
3 thankful to be here to speak to you on their
4 behalf.

5 So we are grateful for the action that
6 you've just taken this evening. That puts a
7 lot of minds at ease relative to the tank and
8 the FPR that was proposed to date.

9 What we're concerned about is a line of
10 communication for future applications as
11 you've indicated you recognize that Nolt has
12 gone away for now.

13 And what we're concerned about is their
14 reapplication in the future in the hopes that,
15 you know, people calm down and don't show up
16 anymore that they could slip in here and file
17 another permit application. And we would not
18 have any notice of that and, furthermore,
19 we're concerned about applications for other
20 properties in East Coventry Township.

21 So as a municipal solicitor myself, I
22 understand that there's not a streamline of
23 publication of permits as they come in and are
24 issued.

1 It's usually up to a resident to seek a
2 right to no request to see what permits have
3 been issued but as your solicitors will inform
4 you, there's a 30-day clock to appeal permits
5 in this Commonwealth from the time that you
6 knew about the permit or should have known
7 about the permit.

8 The ladder is problematic because
9 people usually have spent a lot of money in
10 furtherance of a permit even though a neighbor
11 and property owner might have or should have
12 known that the permit has been issued.

13 So to avoid that complication we're
14 looking for some report, some methodology of
15 communication relative to a permit like this
16 one either for an FPR facility, a tank or
17 something like that in furtherance of an
18 operation like what's proposed by Nolt.

19 So I'd like to start there and see what
20 we can do about that line of communication.

21 MR. HOSTERMAN: What I would suggest to
22 the Board is if they come back to seek renewal
23 of the permit that we immediately notify Ms.
24 Pionzio, who is representing the citizens

1 group, so that they will know about it and we
2 immediately place in one an agenda for the
3 next township Board of Supervisors meeting.

4 MS. PIONZIO: Can I ask you, Mr.
5 Hosterman, to go a step further and notify us
6 of anybody who would apply for a permit such
7 as this so that we're not limiting ourselves
8 to the Nolt application.

9 MR. HOSTERMAN: I don't think the Board
10 would have any problem with that. At any type
11 of application for an FPR facility we will
12 notify you.

13 MS. PIONZIO: Great. Some of the
14 review that we are interested in lies with
15 DEP. As your solicitor rightly said, FPR
16 unfortunately is not regulated as a normal
17 agricultural operation if it falls into that
18 category, but there's certain things that
19 would tip us off that maybe it's not a normal
20 agricultural operation like the size of the
21 tank for the property, what they're doing in
22 the tank, you know, are they mixing other
23 elements like manure with the FPR's and now
24 that its a manufacturing use and maybe not

1 just the storage of FPR those are the kinds of
2 things that if we have knowledge of an
3 application we can look into through DEP
4 understanding that its outside the realm of
5 zoning in some instances.

6 But working together, we think that we
7 can get to a place that we feel that what's
8 supposed to happen on farmland actually does
9 and what's not supposed to happen on farmland
10 does as well.

11 We don't want anyone storing FPR on
12 their property for resale. We don't want
13 manufacturing uses where they're not permitted
14 in the underlying zoning and my next question
15 has to do with truck traffic.

16 I know as you do that you are able to
17 regulate the trucks that traverse your
18 township roads and in some cases, some
19 operations call for trucks that aren't worthy
20 for some of your residential roads whether
21 they are residential in nature they're narrow,
22 there's bridges that may be deficient or just
23 the sheer volume of trucks can sometimes be
24 problematic for a municipality.

1 So I'm not sure if there is a concern
2 from the township's point of view relative to
3 trucks, and how they may need to be restricted
4 should there be another application such as
5 this so that we can look outside of just the
6 nature of FPR, any new legislation that would
7 need to be considered to give you a stronger
8 handle on this type of operation maybe years
9 to come.

10 So I'm asking for staff and the
11 supervisors to look into your roads and
12 bridges sections of your ordinances to see
13 what if anything you can do proactively to
14 maybe prevent some operations such as this
15 one.

16 Is that something you would consider?

17 MR. HOSTERMAN: I mean we can look into
18 that. We haven't heretofore considered
19 limiting the truck traffic on Bethel Church
20 Road. I'm not sure that, you know, that it's
21 desirable in most instances. We can't just
22 target FPR trucks.

23 MS. PIONZIO: Sure.

24 MR. HOSTERMAN: It would have be based

1 on tonnage and axles and things of that
2 nature. So we can look into it but I'm not
3 sure how much room we have to regulate that
4 truck traffic.

5 MS. PIONZIO: Thank you. There was
6 some talk I am told about an open-space
7 acquisition of the subject farm. I understand
8 that there was some research in funding that
9 was explored sometime ago and that those
10 efforts have lapsed.

11 Are the supervisors interested in
12 revisiting an open-space acquisition of the
13 farm at hand?

14 MR. HOSTERMAN: That option was
15 explored with the previous owner. It has not
16 been explored with this current owner.

17 MS. PIONZIO: Would the supervisor's
18 consider putting that back on the table and
19 exploring that option with the current owner?

20 MR. HOSTERMAN: If the current owner is
21 interested in that option, I'm sure the
22 supervisors are interested in open-space.
23 We're very definitely a pro-open space
24 township.

1 We have an earned income tax. It has
2 given us funding to purchase open space,
3 either agricultural easements or conservation
4 easements and when an interested landowner
5 comes forward in order to sell the development
6 rights, we have an ear to listen.

7 MS. PIONZIO: Let me push a little
8 further, Mr. Hosterman, would the township
9 consider the use of the eminent domain code to
10 acquire this property not withstanding the
11 opinion of the property owner?

12 MR. HOSTERMAN: That's not something
13 we're going to discuss in public. They would
14 take that under advisement.

15 MS. PIONZIO: All right. Thank you for
16 your consideration and for your votes this
17 evening.

18 We look forward to this open line of
19 communication so that we can be prepared to do
20 what we can do to help in the future. Thank
21 you.

22 MR. CLEMENT: Is there anybody else
23 that would like to make any public comment?
24 Are there any other attorneys present and

1 would like to make public comment?

2 MR. SHUER: Good evening my name is Eve
3 Shuer (ph). I live in Coventry Glen. It's a
4 shame that we have to get to this point for
5 this Board of Supervisors to have made a
6 decision they could have made in June.

7 It's a shame that they had to create
8 all sorts of confusion and concern in this
9 community on something so obvious, so
10 detrimental to the community that you guys
11 should of just sat there and said, wow, wait a
12 second. This is a problem and if we're going
13 to head down this road you got to at least let
14 the people in the community know what's going
15 on.

16 The continued lack of transparency from
17 the Board of Supervisors, it is terrible. I
18 mean it's really unacceptable. You spend
19 \$1,200 redoing your website and yet you can't
20 find any information on that website.

21 Other township websites have a lot of
22 information, you guys have nothing there.
23 Literally nothing. If in fact you want to let
24 people know what's going on about anything

1 that's going on, you need to have it on a
2 website so we can easily access it.

3 All right. It's almost like you're
4 hiding stuff. So thank you.

5 MS. DAVIS: My name is Alexandria
6 Davis. I want to make sure that everybody
7 understands anything I say --

8 MR. CLEMENT: Excuse me. I apologize
9 can you tell us your address too please?

10 MS. DAVIS: Oh, I'm sorry. Hanson Road
11 (ph). Is that clear enough or you need the
12 exact one?

13 Okay, sorry. First of all, let me just
14 address the Board in saying that nothing I'm
15 saying tonight has anything to do with any of
16 you personally. This is strictly against
17 this.

18 I have -- you know, there's a statement
19 here and some information that I got that was
20 on -- I guess the website that was passed
21 around tonight.

22 It is the declared policy of the
23 Commonwealth to then serve or protect and
24 encourage the development and improvement of

1 this agricultural land for the production of
2 food and other agricultural products.

3 I'm a well driller's daughter. My
4 father was a well driller for many years. I
5 know what it is when water is contaminated.

6 How does this improve our land if it
7 will. If there's a spill or it sinks into our
8 water, how do you feel that's going to improve
9 the agricultural outlook, the outlook for our
10 families, our children, our health and our
11 well-being because you just can't clean it up
12 in that well water.

13 My well is 93 feet deep. I live in an
14 old home. It would hit me like that and I
15 have a real problem with it. I have a real
16 problem that we were never notified about
17 this. That's a big problem for me.

18 I also have a problem the fact that
19 every supervisor voted for it and, Ray, this
20 has absolutely nothing to do with you as a
21 person, however, your family is a
22 well-established family in this community and
23 everybody likes your family.

24 However, I don't feel that you should

1 have been voting on it at all. I think you
2 should have been out of that vote completely.

3 I understand all of five of you voted
4 for it so I think that is a conflict of
5 interest.

6 Family name -- everybody knows Kolbs,
7 we all like the Kolbs and we all like the
8 dairy and of course we like to bake, but in
9 this instance this isn't representing us.

10 It isn't representing our constituency.
11 It's not representing our families. I work at
12 O&J, I see your kids everyday. I'd like to
13 see them healthy. Thank you.

14 MR. HOSTERMAN: Thank you for those
15 comments. I just wanted to point out that Mr.
16 Kolb had no relation to the current owner of
17 the track. So there is no conflict of
18 interest.

19 MS. DAVIS: But it's in the fact that
20 his family name and everyone knows the Kolbs
21 so they think it's okay.

22 MR. HOSTERMAN: Well, thank you for
23 your comments.

24 MS. PIONZIO: May I ask: Do you know

1 if they are spraying today even though they
2 are no longer interested in constructing the
3 tank?

4 MR. HOSTERMAN: We don't know that.

5 MS. PIONZIO: Would there be a way for
6 you to know or is it just word of mouth when
7 people see it or?

8 MR. CLEMENT: We, the township, would
9 not be notified.

10 MS. PIONZIO: So you have no knowledge
11 as of today whether or not they are spraying
12 without the tank?

13 MR. CLEMENT: No.

14 MS. PIONZIO: All right, thank you.

15 MR. KOLB: We have technical
16 difficulty. We don't have phone call in.

17 MS. JAMESON: Hi, my name is Kathy
18 Jameson, Saylors Mill Road. Thank you for
19 your vote today. I appreciate that.

20 Just for clarity I think probably for
21 myself maybe for some other people so the vote
22 today to rescind the application for this. Is
23 that also stopped them and I think this is
24 part of maybe the question from being able to

1 spray not from this pit, just sort of in
2 general.

3 Can they still spray on all these
4 fields that are part of the whole Spring City
5 Acres and or does your vote stop that as well?

6 I just need some clarity on that.

7 MR. CLEMENT: The vote that the Board
8 took this evening was to rescind the agreement
9 that was entered into between the township and
10 the farmer.

11 MS. PIONZIO: And that includes
12 spraying?

13 MR. CLEMENT: That only is relative to
14 that particular agreement. PA DEP does not
15 regulate spraying as long as there's a
16 nutrient management plan. They could have a
17 -- and I'll read the e-mail that we received
18 from PA DEP as well that says "Spring City's
19 Acres plans to store food processing
20 residuals, FPR and a to-be-constructed
21 1.4-million gallon in-ground tank, in-ground
22 concrete tank and then apply the FPR to fields
23 they own in the area in accordance with the
24 best management practices, BMPs, in the

1 department's food processing residual
2 management manual is permitted.

3 MS. DAVIS: Okay. So excuse my
4 ignorance. So they can still spread stuff
5 just not from the pit that they originally
6 were going to build?

7 MR. CLEMENT: They can fertilize their
8 fields as long as they are adhering to
9 whatever the PA DEP and Department of
10 Agriculture regulations are.

11 So yes, they can use traditional
12 fertilizer, they could use FPR, they could use
13 manure, they could do -- and unfortunately the
14 township has zero control.

15 MS. DAVIS: I understand that. And so
16 is there a regulating agency at all that would
17 even know what they were spraying?

18 MR. CLEMENT: PA DEP.

19 MS. DAVIS: But they are only notified
20 like if someone files like complaints of
21 misuse or misacting, correct?

22 MR. CLEMENT: So it's a little bit more
23 than that PA DEP has a nutrient management
24 plan or a manual they put together and it

1 could be for manure, FPR, number of different
2 things that manual has to be filed.

3 So PA DEP is supposed to know that
4 that's going on but there's no general permit
5 there's nothing of that nature.

6 MS. DAVIS: But they don't just come
7 out and look regularly I'm pretty sure.

8 MR. CLEMENT: No, they do not. And as
9 long as the BMPs are being followed it is what
10 it is. So there's no -- unfortunately again
11 --

12 MS. DAVIS: I understand it's beyond
13 the township's regulations. I wanted to make
14 sure everyone understood.

15 MR. CLEMENT: But -- the regulatory
16 bodies, Pennsylvania Department of
17 Environmental Protection, or the Department of
18 Agriculture.

19 MS. DAVIS: Okay, thank you for your
20 time.

21 MS. HENRY: Hello, my name's Jocelyn
22 Henry. I am one of the closest neighbors to
23 this, like literally the farm field is next to
24 my house.

1 And according to table 8.11 of the FPR
2 manual it says "a minimum of 50 feet from the
3 property line can they spray."

4 Okay, my house is 100 feet from that
5 property line so it should be 50 feet over.
6 300 feet from wells and occupied buildings so
7 that takes them into the middle of the farm
8 field.

9 My house is again 100 feet from the
10 feet, my well is 180 feet from the field.
11 Who's going to regulate this? You know
12 they're going to come in and spray.

13 I know you just said the other one but
14 my chances of having my well contaminated fit
15 everything.

16 I'm like I have two choices either I
17 sell now or you guys step up. It's very
18 discouraging. I've lived here 20 years. I've
19 lived in East Vincent since '72 where half of
20 our property's in East Vincent and half is in
21 East Coventry. What are you going to do?

22 MS. WRIGHT: I didn't know if you were
23 going to answer that or not, but my name is
24 Megan Wright (ph). I'm from Bethel Church

1 Road right up the road from the farm and I'm
2 coming to you with the table that was just
3 referenced from the DEP FPR manual.

4 These are required isolation distances
5 and their minimum isolation distances. So
6 it's unambiguous, it's clear in addition to
7 the things that were just cited.

8 This needs to be -- the application of
9 FPR needs to be at least 1,000 feet up
10 gradient of a surface water source. And we
11 know in looking at the elevations of the farm
12 that it's not.

13 And so honestly I want to thank you for
14 your time, your efforts and the votes tonight.
15 But my main concern is with the application of
16 this, application of this FPR, and if we're
17 saying we're not going to allow them to enter
18 into this agreement and build that's great but
19 what are we doing to prevent the FPR
20 application?

21 You know there needs to be zoning for
22 that as well I think and so I guess at this
23 point I'm not clear what latitude you have or
24 what recourse we're to take other than

1 complaining to the DEP or EPA?

2 MR. CLEMENT: Sure and really the
3 answer -- there's no good answer for this at
4 all because the lawmakers at the state level
5 have completely regulated this or deregulated
6 it, however you want to say that but have
7 taken this out of the hands of local
8 townships.

9 We can't zone and prevent farming or
10 what they now find is a normal agricultural
11 operation. ACRE, is the right to farm act,
12 you know, prohibits townships from doing that
13 so really the answer is go to your state
14 legislator and tell them that you want this
15 regulated in a way that it's not regulated
16 now.

17 If this were not being applied to land,
18 if we were trying to make fertilizer, natural
19 fertilizer, this would be in the general
20 permit of PA DEP, but just because it is being
21 applied to the land and that has been
22 determined to being normal agricultural
23 operation, it's deregulated.

24 MS. WRIGHT: I guess -- were they were

1 aware of this infringement when they called it
2 that?

3 MR. CLEMENT: Was PA DEP aware or --

4 MS. WRIGHT: Yeah.

5 MR. CLEMENT: I'm not sure I know -- I
6 don't know how to answer that.

7 MS. WRIGHT: I guess I wonder too if we
8 could look at other counties. My
9 understanding is Lancaster County does zone
10 for this.

11 MR. CLEMENT: Not that I'm aware of.
12 The state level they have -- some things and
13 Lancaster has different zoning in place that
14 county wide in some instances but that would
15 not apply to something like this.

16 MS. WRIGHT: Do you have any advice for
17 us at this point other than to contact
18 legislators?

19 MR. CLEMENT: No honestly that is what
20 really needs to happen now. The more voices
21 are heard by your state legislator, the more
22 chance there is for this to be regulated at a
23 more traditional sense.

24 MR. FOY: So Hi my name's Don Foy (ph).

1 I'm with Crest Estates. I appreciate the
2 Board rescinding the agreement with Nolt.

3 My concern is how confident are we that
4 it's going to stick. So I would assume that
5 Nolt came to the Board with the permit request
6 prior to the purchase of the property; is that
7 correct?

8 MR. CLEMENT: No.

9 MR. FOY: No?

10 MR. CLEMENT: No. My understanding is
11 that Nolt approached after the property was
12 purchased.

13 MR. FOY: Okay. So the purchase was
14 not contingent upon getting this agreement; is
15 that right?

16 MR. CLEMENT: Not to our knowledge.
17 Not to the Board's knowledge.

18 MR. FOY: To anyone's knowledge here?
19 No. So you rescinded the agreement tonight
20 based upon it sounded like concern by the
21 citizens as well as the fact that Nolt wasn't
22 here to represent themselves.

23 I'm not sure if there was another basis
24 for rescinding that, was there?

1 MR. CLEMENT: No, I think you've got
2 it.

3 MR. FOY: Okay.

4 MR. CLEMENT: Yes, that's true. Mark
5 is correct that in the letter I think that if
6 you -- there is a letter that we received from
7 Counsel for Nolt and they said they were not
8 moving forward with construction --

9 MR. FOY: -- at this time. So at this
10 time doesn't really mean anything.

11 MR. CLEMENT: No, it doesn't.

12 MR. FOY: Really. So I think you also
13 said earlier that they may come back again
14 now. Should they what's going to keep you
15 from approving it the next time? They'd be
16 there in person so it takes away that reason
17 why you rescinded it tonight.

18 So can you rescind strictly based upon
19 the fact that we don't like it.

20 MR. CLEMENT: Well, right now there is
21 no agreement in place because it has been
22 rescinded by a vote of the Board.

23 If they, if any facility, whether it's
24 Nolt or somebody else, were to come back to

1 the township, what Ms. Pionzio asked was that
2 the neighbors be notified, that she be
3 notified and that we -- that the Board would
4 then put it on a public agenda so there would
5 be at least a public process for everybody to
6 participate in.

7 But, again, when we're looking at these
8 FPR operations, right now the way the state of
9 the law is they can move forward as normal
10 agricultural operations.

11 Normal agricultural operations
12 forming -- there's a lot of protections in
13 Pennsylvania for farmers.

14 One of which is, they don't need
15 traditional building permits for farm
16 buildings. So even that is something that
17 this Board does not have control over anymore
18 where in a normal sense if we were talking
19 about any commercial operation or even a
20 residential operation, we would.

21 So it's a longwinded answer to tell you
22 that the best we can do is tell everybody that
23 it's happening and give everybody the
24 opportunity to participate in whatever that

1 process is and again write to your legislator,
2 call him, do anything you can to get in touch
3 with them and voice your opposition to things
4 like this.

5 Pennsylvania is the least regulated
6 state in this area.

7 MR. FOY: So I understand that but
8 that's not a solution to this immediate issue,
9 all right? Perhaps that should be done long
10 term, no disagreement.

11 But as far as this particular issue, I
12 would assume that since this is the primary
13 reason why they purchased this property was to
14 conduct this kind of business and now when the
15 permit is rescinded they're going to come back
16 and fight that, do we have a legal basis to
17 not give them the permit the next time?

18 MR. CLEMENT: Mark and I are
19 commiserating on the side here because we
20 understand how all of you are feeling right
21 now and --

22 MR. FOY: I mean, we don't want to walk
23 away from tonight thinking this has been
24 solved and we're all happy and then find out

1 again sometime in the future without any real
2 knowledge that that's been approved and work
3 is already started.

4 MR. CLEMENT: Right, I understand. And
5 I think that again we're commiserating because
6 the state of the law is such that these types
7 of operations are so protected it's difficult
8 for us to take a stand before somebody comes
9 in and asks for something or on just the basis
10 of a zoning permit.

11 But as far as the Board is concerned,
12 they're telling you right now that there will
13 be a public process so that anybody comes in
14 here with an FPR operation at least there will
15 be knowledge.

16 MR. FOY: Okay, and I wanted to talk
17 just a little bit about the zoning. My
18 understanding is there was some initial
19 concerns with the zoning permit in terms of
20 whether this really was going to be
21 agriculture and not manufacturing and whether
22 not it would comply with the ordinance as far
23 as odor goes.

24 And I believe they were told they have

1 to demonstrate compliance with that. If
2 that's correct, what was that evidence?

3 MR. CLEMENT: I think that where things
4 may have gone a little sideways is that
5 initially there was a determination made that
6 perhaps this was not a normal agricultural
7 operation or form and it should be subject to
8 something like a zoning hearing.

9 But then after counsel for the farm
10 came forward and produced a couple of
11 different cases and gave us -- gave the
12 township some more information, it fell within
13 that normal agricultural operation.

14 AUDIENCE: I mean was it proved or did
15 you just take their word for it?

16 MR. CLEMENT: No, there's case law on
17 it.

18 MR. FOY: Thank you.

19 MS. FLORES: Hi, I just wanted to
20 ask -- yeah, Karen Flores, 104 Do Jan. I just
21 want to ask -- my daughter's trying to join
22 and so are a couple other people to hear the
23 meeting like from a phone.

24 MR. KOLB: There's technical

1 difficulty. We don't have a call-in tonight.

2 MS. FLORES: Oh, you don't.

3 MR. CLEMENT: Sorry.

4 MS. LINDA: Hi. My name is Linda on
5 Bethel Church Road. I just want to say
6 something because the woman was talking about
7 the PA DEP and when I spoke with them they
8 told me that they knew all about the old
9 trucking and the they took their word for it
10 because I brought up the water sheds, etc.,
11 right there on the property behind them.

12 And they were -- they said they took
13 their word for it. And I said well aren't you
14 going to do anything to find out about this?
15 That's what the answer was so I just want to
16 add that to what the PA DEP -- their response
17 was to this situation, which is really
18 horrific for the people that live here. Thank
19 you.

20 MR. CLEMENT: I'm sorry. I didn't
21 catch your name.

22 MS. LINDA: Linda.

23 MR. KEEFER: Hi, John Keefer (ph).
24 Kramer Road. I believe it's within the

1 authority of the supervisors to create an
2 ordinance that would require testing of any
3 material that's sprayed on the fields.

4 If the testing shows that stuff is
5 being put on the fields and there's no harm,
6 we probably don't have a problem. I would
7 assume that they would adamantly disagree that
8 they should be tested at all and I think it
9 would behove us to begin an ordinance that
10 would require testing. And then we would know
11 what their putting on and into our water.
12 Thank you.

13 MR. CLEMENT: Just want to address to
14 the first part of your comment with respect to
15 an ordinance.

16 Again, if this is considered a normal
17 agricultural operation, which today it is
18 according to the case law and statutes and
19 regulations, we as the township can't pass an
20 ordinance that would in anyway restrict their
21 use or their ability to perform what are their
22 normal agricultural operations.

23 MR. KEEFER: They talk about
24 nutritional content. I'm talking about

1 pollutants being put in our soil, okay, that's
2 all we want to know.

3 Are you putting anything in there that
4 shouldn't be. That's not much to ask and I
5 don't think the ordinance speaks to that or
6 the laws speak to that.

7 AUDIENCE: The agreement would speak to
8 that wouldn't it?

9 MR. CLEMENT: If you're asking about
10 the agreement that was rescinded, there were
11 some provisions in there relative to what was
12 going to happen, yes.

13 MR. HOSTERMAN: I would just add to
14 that that under the FPR manual from DEP that
15 it cannot be anything hazardous.

16 The FPR has to be non-hazardous in
17 order to be considered a normal agricultural
18 operation.

19 MR. KEEFER: All we're asking is that
20 we test that it is not hazardous. It's a
21 simple task.

22 MR. HOSTERMAN: Thank you.

23 MR. SACHS: Hello, I am Howard Sachs
24 (ph) on Bethel Church Road. I have two items:

1 One is a request that the township hire an
2 actual professional engineer to review the
3 plans of Nolt Trucking and the reason for this
4 is as many of the residents have observed
5 theres inconsistencies between what Nolt has
6 intended to do, and what the regulations state
7 that they can do.

8 We have spoken about setbacks from
9 wells, we have spoken about setbacks from
10 residences, we've spoken about setbacks from
11 upstream variants of surface water.

12 We have haven't spoken about the high
13 ground water that's on much of the land that
14 they've purchased. It is not appropriate for
15 this type of application of FPR according to
16 DEP's own regulations.

17 And I believe had the township hired an
18 actual professional engineer and not a
19 nutrient management consultant this would have
20 been highlighted many, many months ago.

21 The difference that it would make is
22 they intend to apply this stuff to our fields
23 in East Coventry and DEP needs to know that we
24 take it seriously and it's very obvious from

1 the public document that this is not
2 appropriate.

3 I don't think all the residents of the
4 township should have to fund PEs to go to DEP
5 and make calls to DEP. I think the township
6 should do it on the resident's behalf.

7 MR. CLEMENT: Are you asking the
8 township to hire -- well let me put it this
9 way. The agreement's now rescinded. They're
10 not moving forward with this.

11 AUDIENCE: "At this time."

12 MR. CLEMENT: Exactly, I understand.

13 AUDIENCE: They're coming back. We all
14 know they're coming back.

15 MR. SACHS: And the application of the
16 FPR are two distinct issues. We want DEP to
17 have an injunction with Nolt Trucking not to
18 be able to apply FPR on these lands because
19 it's inappropriate for them to do so,
20 according to DEP's own regulations.

21 MR. CLEMENT: I direct you to table
22 8.10 and 8.11 from the DEP's own FPR manual.
23 I have a copy of it that I can provide to you.

24 But it clearly states all of the

1 concerns that you have been spoken about today
2 and I believe had we hired a PE initially, as
3 I said before, and had we went to DEP with
4 that they would make a knowledgeable decision.

5 MR. HOSTERMAN: If you would like to
6 suggest a PE that would be a good consultant
7 for an application such as this one, we're all
8 ears. Do you have a PE in mind?

9 MS. PIONZIO: We'll contact you for
10 sure.

11 MR. HOSTERMAN: Yeah, we would
12 appreciate that.

13 MS. PIONZIO: So let me just add.
14 There's suspicion in the group that they are
15 actually spraying. I know that you said that
16 you don't have knowledge of that but there's
17 fear or suspicion that, okay, now they have
18 said in their correspondence that they're
19 walking away from the construction of the
20 tank.

21 So the distinction is a good one.
22 Spraying can still happen under their manual
23 with DEP. So the residents are concerned that
24 spraying is happening or will happen today,

1 tomorrow, next week, which is not regulated
2 and then the isolation distances are not being
3 respected.

4 So if we had a plan of the property and
5 were able to lay out the isolation distances
6 and the water courses and the high water table
7 and things like that, we would know by sight
8 where they should and should not be if they do
9 walk on the property and spray.

10 So having that kind of information
11 would be very useful for everyone.

12 So I will get in touch with you guys
13 tomorrow as to some recommendations that we
14 would like you to consider.

15 MR. CLEMENT: Thank you.

16 MR. SACHS: My second item is Tim
17 Hennessy, our state representative, could not
18 be here today. He asked me to read a letter
19 for him.

20 He writes on the behalf of East
21 Coventry residents who have expressed concerns
22 about an opposition to a proposed 1.4 million
23 gallon FPR sludge pit proposed in the
24 township.

1 "They are dismayed at what they see as
2 a lack of public notice and public awareness
3 about this proposal and feel that they were
4 not afforded adequate notice that the Board
5 had been considering this massive storage pit
6 and opportunity to express the reasons they
7 oppose it.

8 While I'm glad to hear that the
9 applicant is putting his plans of the storage
10 pit on hold temporarily, there are other
11 issues which remain on the near horizon with
12 regards to quantity of FPR, which might be
13 applied to the farmland.

14 I've reviewed several document about
15 this proposal it occurs to me that to fill a
16 storage pit this size would require almost 250
17 tanker loads carrying 600 gallons each.

18 According to one of the FPR management
19 plan summaries, FPR number seven, the
20 application of the FPR material is planned to
21 occur seasonally four times per year. That
22 would cause severe strain on both our state
23 highways and local roads, bridges in East
24 Coventry and I wonder if the cost to

1 deterioration rebuilding especially the
2 township assets have been considered.

3 I also notice that the application rate
4 is listed at 85,000 gallons per acre and that
5 would raise concerns about runoffs into
6 streams and the local aquifer.

7 My review of the FPR sludge agreement
8 dated June 13, 2022, fails to detail any
9 significant benefits to East Coventry and
10 indeed seems to actually limit the township's
11 regulatory and enforcement powers.

12 For example, restricting of writing
13 with the township inspectors to actually
14 inspect by limiting them to situations where
15 DEP is conducting it's own inspections.

16 I don't see anything which the township
17 would gain in return for giving up it's own
18 authority to conduct inspections. The issue
19 certainly seems to need more public
20 discussions and a much more detailed statement
21 of the township's authority to monitor and
22 inspect the multitude of tanks loads being
23 brought into the township.

24 I suggest that the whole proposal be

1 put on a long hold while these issues can be
2 addressed. The prospect of extended
3 litigation should make the applicant willing
4 to address these concerns and consider how
5 changes might be made to address them.

6 Very truly, Tim Hennessy."

7 I'm going to provide you a copy of the
8 letter that I've read aloud.

9 MS. WHITLOCK: I'm not tall enough. So
10 good evening my name is Nikki Whitlock. And
11 I'm the chief of staff for State Senator Katie
12 Muth.

13 Look I just wanted to send the
14 senator's follow-up letter. She sent a letter
15 on October 4th to the Zoning Hearing Board in
16 regards to this permit. And also she just
17 sent a letter electronically today, this
18 evening, to Mr. Kraynik as the township
19 manager.

20 I have a copy of the letter here for
21 you. I just wanted to also followup and say
22 that a lot of things that you're discussing
23 here that could be done at the state level,
24 I'd really like the ability to set up a

1 meeting so that we can talk to township
2 officials and also the advocacy group to talk
3 about where there is that room for possible
4 legislation to be made.

5 MR. CLEMENT: Thank you.

6 MS. CASSIDY: Hi good evening. My name
7 is Kristen Cassidy. I live on Grubb Road in
8 East Coventry. My comment is more or less
9 directed to the people here tonight. And
10 while I appreciate the words of Tim Hennessy
11 and his letter, I really encourage everybody
12 here to take a look at his track record and
13 how he has voted to protect the environment
14 thus far.

15 I think if you look and see the kind of
16 decisions he's approved, you may want to
17 rethink your decision. So I want to encourage
18 everybody out here to go out and vote on
19 November 8th and also to take a look at both
20 candidates.

21 We do have one gentleman here this
22 evening. And I think if you take a look at
23 his track record and what's important to him
24 -- thank you.

1 MR. CLEMENT: Thanks.

2 MS. CURRY: Hi, my name is Elaine Curry
3 (ph). I live on Feebonner Road (ph). Can you
4 hear me? I have a little voice.

5 Okay my name is Elaine Curry. I live
6 on Feebonner Road. Two things that come to
7 mind is I have farm land behind me and I have
8 chosen to rent it at a farm rate so that
9 people won't spray Round Up and that kind of
10 thing right around my water.

11 I was wondering if the township would
12 consider in the short run doing something like
13 that so the people that live next to these
14 people that want to do that so they would feel
15 safer. And that's kind of thinking out of the
16 box. Land that's rented at a farm rate is not
17 expensive.

18 MR. CLEMENT: The township Board of
19 Supervisors I believe would be open to a
20 number of different things but this property
21 owner doesn't seem real interested in talking
22 about those things.

23 MS. CURRY: Not right now, but if you
24 start to tell him where the line is he might

1 be more interested.

2 MR. CLEMENT: Thank you.

3 MS. CURRY: Because it just seems to
4 me, no disrespect meant, but it takes more
5 zoning to build a two-stall barn than it did
6 to pass this thing so.

7 So I built a two-stall barn six years
8 ago and I had to be very nice and friendly and
9 speak to a lot of people and get all kinds of
10 permits and it took me a long time to do it.

11 I don't understand how you could just
12 say yes to this just offhand. It seems to me
13 that West Nantmeal, East Nantmeal, those are
14 townships that's are very serious about
15 conservation.

16 And they are very picky about what goes
17 into their township and I don't understand why
18 we are not picky. That's it.

19 So I wish you would consider renting it
20 in the short run so that we can kind of
21 control this a little better and then making
22 sure -- also I know farmers around here and
23 they spray wherever they damn well please and
24 unless you say you can't spray there, they

1 spray.

2 So someone needs to make sure that the
3 boundaries are respected.

4 MR. CLEMENT: Thank you.

5 MR. ROARK: Good evening. My name is
6 William Roark. I am an attorney at Hamburg,
7 Rubin, Mullin, Maxwell and Lupin. Christen
8 Pionzio is my partner. As she mentioned, my
9 area of expertise is in environmental and
10 agency law.

11 I am handling a few FPR cases right now
12 before the Environmental Hearing Board so I'm
13 acutely aware of what can go wrong.

14 I wanted to propose one extra tool that
15 you may have in your toolbox. It is correct
16 that FPR is not a permitted activity.

17 There's not a permit that exists for
18 it. But to say that it is an entirely
19 unregulated I think is a bit of a
20 misstatement.

21 Before the material can be applied to
22 the land, the applicant does have to
23 demonstrate to the department through a land
24 application plan that she or he are going to

1 follow these best management practices, those
2 BMPs.

3 It is only after that proof is given to
4 the department that the department gives you
5 the green light and the department makes a
6 determination that you are allowed to apply.

7 That determination from an agency law
8 perspective is an appealable action to the
9 Environmental Hearing Board.

10 Now you won't have any automatic notice
11 when the department would approve that.

12 However, it has been my personal experience
13 from antidotal evidence and me personally in
14 my case if you notify the department
15 beforehand that you have an interest in this,
16 in any permits or any requests for application
17 in your township, the department will notify
18 you when that approval is given.

19 So now the clock is ticking that if the
20 township wanted to step in and file an appeal
21 of that determination the township would have
22 30 days to do so and would be able to avail
23 itself from all the opportunities that the
24 Environmental Hearing Board that is asked for.

1 MS. KISSICK: I'm Sharon Kissick (ph),
2 Wine Lane (ph). And I'm speaking to the
3 community.

4 This isn't over and it's up to each
5 individual here to see what goes on in the
6 community and how this Board of Supervisors
7 could permit this without a hearing like
8 this -- yes, you have rescinded it for now but
9 let me tell you, community, this isn't over.
10 And it's up to us to see what goes on in our
11 community.

12 So thanks for being here.

13 MR. ELLIOTT: I'm Mark Elliott from Old
14 Schuylkill Road. I noticed that DEP is
15 mentioned a lot but the Department of
16 Agriculture also has a lot to say about what
17 can and cannot be put on the ground. Do they
18 have specific BMPs regarding FPR?

19 MR. CLEMENT: Yes.

20 MR. ELLIOTT: They do?

21 MR. CLEMENT: No, the Department of
22 Agriculture has pretty much punted this over
23 to PA DEP they are involved --

24 MR. ELLIOTT: And they have absolved

1 themselves of that --

2 MR. CLEMENT: For the most part.

3 MR. ELLIOTT: Okay. The other thing is
4 look at this crowd, I'd say if your registered
5 to vote you're eligible to build a platform
6 and campaign on it and sit up here and take
7 the heat yourself if you're really concerned
8 about your community, you can do it.

9 Okay and it's great to see all these
10 people out here that you're upset about
11 something that you think they did wrong, but
12 the next time you're at Towpath Park or
13 Ellsworth Park and enjoying it, call them up
14 and say hey thanks.

15 You're here when you're upset, at least
16 let them know once in a while when you're
17 happy with something they do. Thank you.

18 MR. CLEMENT: Thank you. All right.
19 Thank you. All of you thank you for coming
20 out.

21 MS. PASSCOFF: Well, I guess it's time
22 for me to talk.

23 MR. CLEMENT: Couldn't get out that
24 easy.

1 MS. PASSCOFF: I'm Doreen Passcoff.
2 Creamery Road Hill Creek Farm and the
3 President of East Coventry Advocacy.

4 I would like to remind the Board that
5 to reconsider the agreement to be made to
6 purchase this property as open space to
7 prevent food processing residue waste for
8 being sprayed, injected or otherwise placed on
9 the property.

10 The agreement should also include a
11 prohibition that Nolt's Trucking and other
12 connected persons could unpurchase or operate
13 of the properties in Chester County.

14 We've looked at this for open space
15 before, we can do it again.

16 MR. CLEMENT: Thank you. I think
17 that's the was the last word. Thank you all
18 for coming out this evening. Have a good
19 night.

20 CHAIRMAN RINEHART: I motion to
21 adjourn.

22 MR. DUFFY: I second that.

23 CHAIRMAN RINEHART: All in favor say
24 aye.

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ALL: Aye.

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(Whereupon the meeting concluded at 7:58 p.m.)

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C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence noted are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter, and that this is a correct transcript of the same.

Court Reporter-Notary Public

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