

**FERGUSON TOWNSHIP JOINT BOARD OF SUPERVISORS AND  
SOURCEWATER PROTECTION AD HOC ADVISORY BOARD  
DRAFT SOURCEWATER PROTECTION ORDINANCE RECOMMENDATIONS  
WORK SESSION MINUTES  
TUESDAY, OCTOBER 9, 2018  
6:00 PM**

**I. ATTENDANCE**

<b>Board of Supervisors:</b>	<b>Sourcewater Protection Ad Hoc Advisory Board</b>	<b>Township Staff:</b>
Peter Buckland	Ron Connolly	David Pribulka
Steve Miller	Larry Harpster	Ray Stolinas
Laura Dininni	James Hynes	Jeff Ressler
Sara Carlson	Barbara Christ	Lindsay Schoch
Tony Ricciardi	Gary Petersen	
	Erik Scott	
	Charles Driscoll	
	Todd Giddings	

Others in attendance were: Bill Keough, resident; Randy Hudson, resident; Wes Glebe, resident; Ted Graef, resident

**II. CALL TO ORDER**

Mr. Buckland called the Joint Board of Supervisors and Sourcewater Protection Ad Hoc Advisory Board work session to order at 6:06 PM

**III. CITIZENS' INPUT**

Mr. Randy Hudson, Nittany Valley Environmental Coalition, stated that it is important to be mindful of our own properties as we consider a Sourcewater Protection overlay district including the Whitehall Road Regional Park and the runoff that may be generated as part of that development.

Mr. Wes Glebe, Nittany Valley Environmental Coalition, stated that the Township should consider protection from privatization of water resources as time progresses.

Mr. Ted Graef stated that he is a Ferguson Township business owner and property owner and he supports the goals of the proposed ordinance. He went on to say that he supports the elimination of Section 7, which is the requirement of providing the facility profile sheet.

**IV. INTRODUCTIONS**

Mr. Buckland started out by thanking the Advisory Board for their time spent on the proposed ordinance and specially thanked the agricultural community for their comments and recommendations on the ordinance. Mr. Buckland stated that the recommendations for each section will be reviewed and questions by the Board are permissible. Any follow-up questions or questions that require more detailed answers will be given to staff to follow up on at a later time.

The Ad Hoc Advisory Board, the Board of Supervisors, and staff introduced themselves.

Mr. Stolinas provided a brief summary of the discussions that the Sourcewater Protection Ad Hoc Advisory Board had over four meetings earlier this year. Included in the agenda for tonight's worksession are the meeting minutes from each of the Advisory Board's discussions as well as

the recommendations that came out of each of those meetings. Mr. Stolinas explained that he compiled the recommendations by section.

## V. ORDINANCE TEXT RECCOMENDATIONS

1. **Section 1. Purpose and Intent:** The Ad Hoc Advisory Board recommends that bullet #6 remain “that is scientifically plausible but uncertain”. Penn State Physical Plant commented that this phrase is overly broad and ambiguous. Ad Hoc Advisory Board member Todd Giddings offered to provide educational language to consider including in the ordinance related to the last bullet.

In response to a question from Ms. Dininni regarding bullet number five and six under Purpose and Intent, Mr. Giddings explained that the Bellfonte Borough’s water source is Big Spring and its headwaters extend into northwestern Ferguson Township. Mr. Buckland spoke to the sixth bullet. He explained that it was not intended to cite practices that would be viewed as being preventative of harm—rather those that could cause harm as a precautionary statement.

Ms. Dininni stated that when the Board receives the draft ordinance for review, it would be beneficial to discuss making this ordinance proactive rather than reactive, using regulations that might include statements of positive land use impacts such as low-impact development.

2. **Section 3. Definitions:** The Ad Hoc Advisory Board recommends that the “*Alteration*” definition **does not include** “*plowing and tilling*”.

Mr. Buckland clarified that the Advisory Board is asking the Board to consider calling out the definition of alteration explicitly to not include plowing and tilling.

3. **Section 3. Definitions:** The Ad Hoc Advisory Board recommends that the “*Best Management Practices (BMPs)*” definition **be enhanced** by including language that agriculture practices are intended to be consistent with the state’s nutrient management chapter.
4. **Section 3. Definitions:** The Ad Hoc Advisory Board recommends that the term “*Advanced Agriculture Research*” be **deleted** because it is not used in the ordinance at all.
5. **Section 3. Definitions:** The Ad Hoc Advisory Board recommends that the term “*Agriculture Activities*” and **encompass the activities** under “*Agriculture Operations*”.

In response to a question from Mr. Buckland, Ms. Christ explained that breweries have not been associated with agriculture like cideries and wineries have been. Cideries and wineries, by state law, are a part of agriculture operations.

6. **Section 3. Definitions:** The Ad Hoc Advisory Board recommends that staff confirm the words listed are not used in the ordinance, and if they are not, remove the definitions. The terms include: **Abandoned Water Supply Well, Advanced Agricultural Research, Agriculture, Alteration, Carbonate, Limestone, Closed or Undrained Depression, Community On-Lot Sewage Disposal System, Groundwater Recharge, Junked Materials, Storage Tank Facility.**
7. **Section 3. Definitions:** The Ad Hoc Advisory Board recommends that the term “Multi-Family Residential Dwellings” should be defined in the Section.
8. **Section 3. Definitions:** The Ad Hoc Advisory Board recommends **removing** the term “*Abandoned Water Supply Wells*” from the draft ordinance because this is already regulated in the Property Maintenance Code. In the “*Source Water Protection Area*” definition, the Ad Hoc Advisory Board recommends **leaving** the word “public.”
9. **Section 4. Applicability:** The Ad Hoc Advisory Board recommends “*that use or store hazardous materials in quantities meeting or exceeding established quantity thresholds, except those uses noted below under C., D., and E.*” be **deleted**. The Ad Hoc Advisory Board also recommends that **language be inserted** in Section 11 that indicates the Land Development Plan should contain notes acknowledging project’s location in relation to the Source Water Protection Zone and that the applicants are compliant with state and federal laws regarding chemical storage and chemical use.
10. **Section 5.A. Establishment and Delineation of Source Water Protection Overlay District and Wellhead Protection Zones:** The Ad Hoc Advisory Board recommends that language be **added** to this section, recognizing that “*if a particular well is decommissioned or abandoned, that the protective radius be removed and no longer in effect upon notice of the water purveyor*”.

In response to a question from Mr. Miller, Mr. Stolinas stated that there is not a definition of decommissioned within the ordinance. Mr. Giddings explained that in the groundwater industry, the term decommissioned has a very specific definition that would render the well impervious. Well abandonment is slang or common language that implies that the well has been walked away from and not necessarily deemed impervious. Mr. Giddings stated that he is in support of defining the word decommissioned because it is a deliberate process that involves sealing the well.

There was a brief discussion regarding whether the recommendation is to remove the abandoned well definition and add decommissioned or to keep both. There was a consensus to remove the abandoned well definition and add the definition of decommissioned. There was also a consensus from the Advisory Board to add a note that refers to the water well and geothermal borehole provisions of the Property Maintenance Code, Chapter 10, regarding abandoned wells.

11. **Section 5.A.6. Establishment and Delineation of Source Water Protection Overlay District and Wellhead Protection Zones:** The Ad Hoc Advisory Board recommends that this section acknowledge that there are there are two University-owned wells that are on the



Township boundary or very close to it—the Zone I radii extends into the Township boundaries. This issue can be addressed when staff receives the well map from Penn State University.

Mr. Stolinas went on to explain that staff received an email from Steve Watson, Penn State University Director of Campus Planning and Design, stating that well 28A is a drinking water well and is included in the University's Sourcewater Protection Plan and also has a 400 foot radius as a Zone I protection area. Well 37 is an irrigation well and does not have a Zone I protection area designated in the University's Sourcewater Protection Plan. He also stated that utility mapping showing the well head location could be shared with Township staff for review, however, details on well head locations are not for public distribution for security reasons.

**12. Section 7. Reporting Requirements A. 1. Through 4., Section 10.B.5., Appendix B. and**

**Appendix D.:** The Ad Hoc Advisory Board recommends that the requirement for submission of Facility Profile Sheets to Ferguson Township be **deleted** from the draft ordinance. Advisory Board members discussed this potential ordinance requirement, at length, requiring all regulated land uses submit a list of regulated substances to Ferguson Township. Advisory Board members were concerned that this requirement only created a data collection burden to Township staff, in addition to duplicating efforts with other agencies, such as the PA Department of Agriculture, that already require farmers to provide Safety Data Sheets (SDS). Members added that properties storing hazardous chemicals already provide the SDS on-site in the event of an emergency. There was an overall concern that once the Facility Profile Sheets become public domain, they can be obtained through Right-to-Know.

**13. Section 8.A.1.a. Public Water Supplier Review:** The Ad Hoc Advisory Board recommends that *"The subdivision and land development, or New Regulated Land Uses and Activities is permitted in the underlying zoning district"* be **deleted** from this section.

**14. Section 8.A.1.a. Public Water Supplier Review:** The Ad Hoc Advisory Board recommends that the language that addresses the public water supplier's role in the review process for land development and new regulated land uses and activities **remain** in this section and not be deleted.

**15. Section 8.A.2. Public Water Supplier Review:** The Ad Hoc Advisory Board recommends that the term *"Extraordinary Development Proposals"* should be defined and the time frame for these proposals should be clarified. The intent of the term relates back to the normal review timeframe of 90-days for any subdivision or land development as specified within the PA Municipalities Planning Code.

Mr. Buckland wondered who would come up with the definition of Extraordinary Development Proposals. There was a consensus for staff to provide some clarification on what this definition should be and what it would mean in terms of enforcement. There was a brief discussion regarding the time frame for these proposals related to the MPC.

**16. Section 9. Table 1.:** The Ad Hoc Advisory Board recommends that the restriction of not permitting a majority of the 45 regulated Land Uses within the designated Zone I radii remain as stated within the current draft ordinance. Table 1 currently Advisory Board members learned that water suppliers own approximately 76.34 acres of property within Zone I as

opposed to 33.92 acres of privately owned property within the Zone I. Further, staff explained that any existing uses within the Zone I may continue as nonconforming uses under the Source Water Protection Ordinance. Nixon, Kocher, and Rock Springs wells are located within the Rural Agricultural (RA) Zoning District, DeArmit well within the Rural Residential (RR) Zoning District and Chestnut Ridge wells within the Single-Family (R1) Residential Zoning District, limiting the allowance of high-risk land uses on or near prescribed radii.

**17. Section 9., Table 1, Land Use and Activities #36:** The Ad Hoc Advisory Board recommends leaving in the language that addresses “Geothermal Exchange Systems”.

**18. Section 9., Table 1, Land Use and Activities #46:** The Ad Hoc Advisory Board recommends that Land Use #46 “General Agriculture on field, forage, forestry, insects...” be **deleted** from the draft ordinance. Scientists and researchers managing these farms using best management practices and following certain controls and requirements in addition to the Ordinance exemption for Agricultural Operations and/or Service Businesses along with Silvicultural and Timber Harvesting under Section 4. Applicability, D. and F.

In response to a question from Mr. Miller, Mr. Stolinas explained that there are a certain level of best management practices that are already being performed and that inclusion in this ordinance would not provide any additional protection. There was consensus from the Advisory Board that they agreed with Mr. Stolinas.

Mr. Buckland referred to number 21 in Section 9, Table 1—incinerators. He asked if the Advisory Board would support including a definition of incinerators in Section 3, Definitions. The Advisory Board agreed.

Mr. Buckland referred to Liquid Petroleum Transmission Lines in Table 1 and asked for a recommendation from the Advisory Board. Mr. Giddings explained that the Advisory Board did discuss this—a natural gas pipeline, when not in liquid form does not impact the water resources when a leak is present. Whereas liquid petroleum products may make it into the subsurface when a leak is present. Mr. Giddings stated that the Advisory Board did not include natural gas because it would not have an impact on the ground water or subsurface.

In response to a question from Ms. Dininni regarding the removal of Section 7 from the proposed ordinance altogether Mr. Ressler stated that the applicant would have to still show the Township where the hazardous materials would be on a plan, however, a Facility Profile Sheet would not be required if Section 7 is in fact, removed.

**19. Section 11.A.2.a.:** The Ad Hoc Advisory Board recommends that the term “*surface drainage patterns*” be **deleted** from the draft ordinance. This recommendation is consistent with comments received from the Township Engineer prior to the December 11, 2017 Public Hearing.

**20. Section 11.A.2.e.:** The Ad Hoc Advisory Board recommends the **removal** of “*Non-Intermittent*” from letter e., and leave “*Bodies of water or streams*”.

In response to a question from Mr. Buckland, Mr. Giddings explained that there are three categories of streams—perennial, ephemeral, and intermittent. He went on to say that a non-intermittent stream is automatically a perennial stream. Non-intermittent is not necessary because it is redundant.

21. **Section 11.A.5.:** The Ad Hoc Advisory Board recommends the **removal** of “*Backfilled Daily*”.

In response to a few questions from the Board of Supervisors, Mr. Stolinas stated that the Advisory Board recommended the removal of the requirement to backfill daily because the task would be onerous on the property owner. Mr. Stolinas went on to state that he would have to do some research on the definition of excavation. Mr. Pribulka added that there are provisions in place through to protect topsoil mounds from erosion.

22. **Section 11.A.7.:** The Ad Hoc Advisory Board recommends language be **revised** In Section 11.A.7, there was a consensus to recommend that the paragraph only refer to Section 11.A.2 b., Open Sinkholes.

Ms. Dininni and Mr. Buckland asked for clarification for the recommendation of this section. After a brief discussion, staff will provide more context on this recommendation in terms of the Stormwater Management Ordinance.

In response to a question from Ms. Dininni regarding the 50-foot setback from sinkholes and possibly fracture traces, Mr. Giddings explained that a fracture trace creates a closed depression with a thicker membrane that would be an appropriate place to direct stormwater because of its filtration characteristics.

23. **Section 11.A.8.:** The Ad Hoc Advisory Board recommends language be **revised** to address commercial, industrial, and non-residential entities only. In addition, Section 11.A.8 should only apply to Section 11.A.2 b., open sinkholes and e., non-intermittent bodies of water or streams.

24. **Section 11.A.9.:** The Ad Hoc Advisory Board recommends the **rewording** of this Section to refer to the Stormwater Ordinance design standards—“*Detention, retention, and infiltration facilities shall be in compliance with Chapter 26, Part 1 Stormwater Management.*”

25. **Section 11.A.11:** The Ad Hoc Advisory Board recommends language be **revised** to impart that “Stormwater shall not be directed into sinkholes”. A majority of the Ad Hoc Advisory Board members did not agree with the statement in this section, however, the Stormwater Management Ordinance stipulates discharge into sinkholes or closed depressions under certain conditions and stipulations. At the June 6, 2018 meeting, the Ad Hoc Advisory Board further made a recommendation to delete this section altogether.

26. **Section 11.A.12:** The Ad Hoc Advisory Board recommends language be revised to exclaim that “Blasting activity permitting is required by the PA DEP Bureau of Mining Programs in accordance with provisions of the Administrative Code of 1929, Section 1917-A and 25 PA Code Chapter 211. For the purpose of the Source Water Protection Overlay District and Map, blasting activity shall be permitted by Special Exception within any Zone I radius.” The recommendation also removes the sentence “Within the Zone II and Township-wide Source



Water Protection Overlay, blasting activity shall not be permitted within 50' from geologic features identified under Section 11.A.2., a. through i." from Section 11.A.12". Blasting must be done per DEP's standards and regulations. PA DEP limits the number and size of blasts that can go off in a sequence to limit ground motion.

27. **Section 12:** The Ad Hoc Advisory Board recommends that the language change from "It is the intent of this Ordinance to require..." to "It is the intent of this Ordinance to encourage...". The Ad Hoc Advisory Board discussed the intent of this Section and recommended that language be added to clarify that the Source Water Protection Ordinance is only a reference document and does not supersede any state or federal regulations.

Mr. Stolinas clarified that this section is referencing the Environmental Emergency Response Plans.

In response to a question from Mr. Buckland, Mr. Pribulka stated that no, emergency response plans do not go to the Centre Region Emergency Management Program. Mr. Giddings added that this is a function of the PA Department of Environmental Protection and the intent of these plans are to ensure that within the facility, there are proper containers, double containment, or necessary plugs hanging nearby should someone need to plug a drain in the event of a spill. These plans also contain emergency contact phone numbers. The PA DEP is more focused on the prevention of an incident rather than the response during an emergency incident.

In response to a question from Ms. Dininni, Mr. Giddings suggested revising Section 12 to note that Section 12 is a reference document, not the entire ordinance.

## VI. OTHER RECOMMENDATIONS

1. The Ad Hoc Advisory Board discussed the need for an educational component related to the proposed Ordinance upon adoption. Ideas such as an open house to conduct an overview of the Source Water Protection requirements and map would further educate residents, businesses, industries, farmers and the University, use social media such as Twitter and Facebook to distribute educational materials. Ad Hoc Advisory Board members compared the Source Water educational program to the MS4 process conducted by Township Engineer, Ron Seybert. It was also suggested that a portion of the Township Website provide educational materials related to Source Water Protection.
2. The Ad Hoc Advisory Board recommends that the Board of Supervisors notify the property owners within the proposed Zone I radii of the pending change to their property, 30-days prior to the public hearing upon adoption of the Source Water Protection Ordinance and Overlay Map.
3. The Ad Hoc Advisory Board recommends that the Board of Supervisors hold a work session before the public hearing between the Board of Supervisors and the Ad Hoc Advisory Board on the proposed revisions of the Source Water Protection Ordinance so that there can be a discussion on the pending issues.

Mr. Pribulka reviewed the proposed next steps for the draft ordinance and how revisions will be presented to the Board of Supervisors, the Advisory Board, the Planning Commission and the Centre Regional Planning Commission. Mr. Stolinas presented the Overlay Map and reviewed the components of it.

In response to a question from Mr. Ricciardi, Mr. Pribulka stated that he sees the educational component of this ordinance proceeding similarly to the MS4 requirement for public outreach and education. Mr. Pribulka explained that it would be a staff function to collect those materials and then assemble those through the Township's media and social media outlets. Mr. Keough suggested that the Township provide some educational information to the western end of the Township at venues such as the Baileyville Community Hall. Mr. Scott suggested that the Township involve the local schools in the education of Sourcewater Protection.

**VI. ADJOURNMENT**

With there being no further discussion, the work session adjourned at 7:35 p.m.

Respectfully Submitted,



11/9/18

Date