

Union Township Board of Supervisors
Regular Board Meeting
February 24, 2014

The Board of Supervisors Meeting was called to order by Chairperson Andrew Tullai at 7:00 p.m. The meeting was held at the Union Township Municipal Building, 3904 Finleyville-Elrama Road, Finleyville, PA. The pledge of allegiance was recited. Board Members in Attendance by roll call were Stephen Parish, Larry Spahr, Andrew Tullai, Brenda Cushey, and Charles Trax, Jr. Also in attendance, Dennis Makel–Solicitor, Judy Taylor–Treasurer, Debra Nigon–Secretary, Harold Ivery–Building Code Official, and Peter Grieb–Code Enforcement Officer. Mr. Carl DeiCas–Township Engineer could not attend.

Public Comment

Hal Breinig, 44 Finley Avenue, commented on the good work done by the Road Crew on snow removal. He also said that he was disappointed that the Supervisors voted down the Air Pollution Ordinance that had been advertised for proposed adoption by the Board at the past meeting. He said that several of his neighbors couldn't leave the house this past year because of the dust created by Tomko. He and his neighbors are asking why it was voted down.

Frank LaTorre, 7 Boyka Drive, said that the solicitor was paid to prepare a dust ordinance which was advertised and wanted to know why the Supervisors would pay for that to be done if the intention was to vote it down. He also wanted to know if it was related to the recent granting of a grading permit to Tomko. He asked the three Supervisors who voted against the Air Pollution Ordinance to comment. Mr. Parish and Mr. Trax said that they had no comment at this time. Mr. Spahr said that contractors either offer or acquiesce when requested by the Board to begin watering down the road when they are conducting operations that create large amounts of dust and that there has not been a major problem.

Gary Baumgardner, 47 Cardox Road, said that EQT was to be shutting down today and a new baseline sound measurement is supposed to be being collected and asked who would be monitoring the site during the next few weeks to ensure activities have ceased so that a good baseline measurement is obtained.

Ms. J.L. Carpenter, EQT, said the crew is about 50% moved out and by Wednesday they will be completely out. In mid-April or May they will be back with the natural gas rig. On March 4, the Township Engineer will be working with John Centifone at EQT on the 72-hour ambient reading. She said that their Land Department is currently speaking with the land owners regarding the monitoring equipment and obtaining permission to place monitors on owners' property. She also reported that Mr. Centifone and Mr. DeiCas have been working on getting the permits in place for a temporary water line. Also, Ms. Carpenter said that the natural gas rig which is coming and the catalyst on the generator will reduce the diesel fumes.

The solicitor inquired of Ms. Carpenter as to what would happen if there is a fire such as what recently occurred in Greene County due to an explosion. Mr. Spahr said that when Chesapeake owned the lease, they had offered to work with the fire department and get them supplied with potential chemicals should there be an explosion. Ms. Carpenter said that they just held a refresher course on January 27 for the fire departments. She said that Elrama VFC had a conflict and needs to reschedule. She said that the Emergency Management Plan was filed with the County and that the Township has a copy.

Mr. Ivery said that it was his understanding that there are no chemicals or water sprayed on fires of that type, and the typical course of action seems to be to work on containment. Mr. Baumgardner said that the fire in Greene County at the Dunkard Site burned for five straight days in a row and no one could get within 900 feet of the site. He said that the residents of Cardox Road live closer than that distance, he at 500 feet, Mr. Tullai at 650 feet. He said that he had been in touch with 20/20 who showed some interest in the situation involving the proximity of residents to the well pad at Trax Farms.

The solicitor asked for the Board's approval to review Act 13 in light of the recent Supreme Court Decision to see how our Ordinance can be revised and what the Township can enforce and cannot enforce concerning the overturning of certain parts of Act 13. He said the issue of severability is now before the Commonwealth Court.

Motion authorizing the solicitor to review the current Oil and Gas Ordinance in terms on the Supreme Court decision on Act 13.

Motion by Larry Spahr, Second by Steve Parish

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes, Motion carried.

The solicitor said that he would be looking at issues particularly concerning the proximity of the Cardox Road homes in light of what has happened in Greene County. Mr. Tullai requested that the solicitor also look into air quality controls as well.

Motion to approve the Minutes of the January 27, 2014, Workshop as presented by the Secretary, subject to being true and correct.

Motion by Steve Parish, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

Motion to approve the Minutes of the January 27, 2014 Regular Board Meeting, as presented by the Secretary, subject to being true and correct.

Motion by Brenda Cushey, Second by Larry Spahr

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

Motion to approve the Minutes of the February 10, 2014, Regular Board Meeting as presented by the Secretary, subject to being true and correct.

Motion by Steve Parish, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

Motion to approve Payroll #03 dated January 31, 2014, in the sum of \$12,296.96 as presented by the Treasurer, subject to being true and correct.

Motion by Larry Spahr, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

Motion to approve Payroll #02 dated February 14, 2014, in the sum of \$9,657.93 as presented by the Treasurer, subject to being true and correct.

Motion by Larry Spahr, Second by Steve Parish

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

Departmental Reports

Mr. Ivery said that there were some questions that Municipal Services had about Grossetto Drive in Tuscany Estates regarding the incomplete status of the road which was supposed to have been continued as the Developer began working on new phases of the development and a guard rail issue on that street as well. In addition, they have been going to the magistrate on a separate water issue which needs to be resolved. However, they said that they have not been able to get in touch with Earl Danielson, the developer. They requested the solicitor to look at the Developer's Agreement because, if the project has stalled, the status of Grossetto Drive may be a potentially unsafe condition and the road may need to be completed in some fashion.

Motion to have the solicitor review the Developer's Agreement with Quaker Engineering / Tuscany Estates and to also review the circumstances relative to the status of work at Tuscany Estates Development.

Motion by Larry Spahr, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

The Building Code Official / Zoning Officer also discussed the Flood Plain Ordinance which had been sent into the Department of Community and Economic Development (DCED) and was found to be non-compliant. In 2009, the Township adopted a Flood Plain Ordinance according to the DCED model; however, Mr. Ivery explained that when he compared the new model FEMA Ordinance which was provided to the Township with its notice of non-compliance, there were many changes between the new model and what had been adopted in 2009. The solicitor suggested that the Township hold off on advertising the model Ordinance until the Engineer has a chance to review it.

Mr. Ivery also said that the Sunoco Heavy Hauling Agreement had been submitted for the solicitor's review. The solicitor said that he had reviewed it and said that it is similar to what we have done in the past. Ms. Taylor said that Sunoco made some revisions. The BCO indicated that most of the project is on private property, but that Sunoco was going to cross Patterson Road which is a Township Road and that they have bonded all 2 miles of that road. The other roads involved would be state roads. The solicitor suggested increasing the fee to \$3,000 as there could be additional expenses. Mr. Parish was in favor of increasing the fee to \$3,000 for this project since it is a large project and any surplus could be reimbursed to the company. Mr. Parish said if there were to be any damages, the state provides for only \$12,500 per mile. Ms.

Taylor and Mr. Ivery said that per the current Agreement, the applicant must repair any damage over what can be repaired with the \$12,500 per mile. The solicitor said it is better to have a bond in place because the Township can go against a bond; otherwise there may be litigation if they refuse to pay any additional costs.

Mr. Ivery asked whether the Agreement could be changed since it is an approved Agreement. Mr. Makel indicated that it could. Ms. Taylor said that the way the agreement is written the fee amount is only categorized as an engineering escrow and the fee could not be used for litigation nor re-purposed to repair the road and is used only to cover the engineering inspections. The solicitor said that in other Townships where he has worked it is also used to reimburse any administrative fees as well.

Motion to enter into an agreement with Sunoco with some modifications that (1) the escrow amount be modified to \$3,000 and be designated for legal, engineering, administrative and inspection fees and (2) that the state road bond amount of \$12,500 per mile be placed in the agreement as is done elsewhere, and (3) any other modifications deemed necessary as determined by the solicitor.

Motion by Steve Parish, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

The Jaki Rezoning request was discussed. A hearing time was discussed to determine a date that would meet advertising and certified mail notification requirements.

Motion to have a public hearing on March 19, 2014 at 7:00 p.m. to review the zoning change request of Jason Jaki and Gina Latona of 54 Holman Road, for property situated across from Giant Eagle, identified as parcel 640-010-00-00-0020-01, requesting rezoning from R1 to C2 with approval to advertise and send certified letters to adjacent property owners within 300 feet of the property.

Motion by Larry Spahr, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

Motion to have the Zoning and/or Engineering provide oversight for the 72-hour noise monitoring at Trax Pad A during the ambient sound study.

Motion by Brenda Cushey, Second by Larry Spahr

Roll call vote: Parish-yes, Spahr-yes, Tullai-abstain, Cushey-yes, Trax-abstain. Motion carried.

The Recreation Board provided its report. Ms. Dorsen requested that the Board review the quotes obtained by the Recreation Board for pressure washing, painting and re-staining the wood for the concession stand at Brownsville Park which includes sanding and repainting of the park doors. Ms. Dorsen supplied the quotes to the Board and was asked for her recommendation. She said that her recommendation was to go with the lowest quote.

Motion to approve the lowest quote for Wow 1 Day Painting for pressure washing, sanding, painting and restoring of the concession stand at Brownsville Park in the sum of \$2,590 dollars.

Motion by Steve Parish, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

Motion to approve general fund bills in the sum of \$94,936.07, as of February 24, 2014, as presented by the Treasurer, subject to being true and correct.

Motion by LS, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes, Motion carried.

Mr. Parish said that the Township should look at replacing the two small trucks as they are rusting and have mileage of about 80,000 miles. He said that delivery takes a long time, and if they are ordered in March, the Township may not get them by the fall season. He suggested looking at a stainless steel bed that could later be transferred to another truck. Ms. Cushey said that the Township should also look at getting rid of the Sterling before parts are no longer available. Mr. Spahr said that he was agreeable to looking into both issues. Mr. Tullai asked if Mr. Parish would meet with the Road Superintendent and Road Foreman to see if they could get some information together that they could review at the next Board meeting.

Mr. Makel said that he has discussed the litigation with Tomko with his associate attorney Chris Furman and that the sanctions hearing will be postponed as the parties are working on an agreement. Mr. Makel said that, since the agreement has not yet been drawn up by Tomko solicitor Renee Colbert, that he himself will work on completing the agreement.

In regard to the evidence room, it was decided that two SWRPD officers would take the guns to be disposed of at Tube City, a location recommended by Chief County Detective, James McElhinney of the District Attorney's office. The solicitor said that a Motion should be on the Agenda in regard to the money held in the evidence room. He instructed the Treasurer and Secretary to provide the sum total of monies in the Evidence Room to the Board.

Motion to adopt the Resolution for Plan Revision for New Land Development and the attached Sewage Planning Module for 6637 Library Road, the McLain Property situated at 6637 Library Road, South Park, PA and the attached sewage planning module.

Motion by Larry Spahr, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

It was decided the punch list provided by the salt shed canopy supplier be held for executive session at a time when Mr. DeiCas can attend.

Mr. Tullai read the rejection letter received regarding our Local Share grant application. There had been 71 applicants.

Motion to award the Parking Lot Inlet Replacement Project to Creative Enterprises in the sum of \$14,400 based upon the recommendation of the Township Engineer.

Motion by Steve Parish, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes, Motion carried.

The Codification response was discussed and it was determined that since the Flood Plain Ordinance is a key document relative to insurance and mortgages, that response to General Code should be held to include a newly adopted Flood Plain Ordinance.

Board Approved: March 24, 2014

The Comcast franchise agreement was discussed. Ms. Cushey asked about how the Township could go about getting Verizon to come into the Township. Mr. Tullai said that we should ask for free cable and internet in any re-negotiated Agreement.

Motion to have the solicitor review the current Comcast Franchise Agreement and suggest changes should the Township desire to re-negotiate.

Motion by Brenda Cushey, Second by Larry Spahr

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

Motion to Approve Resolution 2012-03, Washington County Tax Collection Committee appointing Charles Trax Jr. as primary delegate with alternate as John Smida

Motion by Steve Parish, Second by Larry Spahr

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes, Motion carried.

Motion to permit Finleyville Volunteer Fire Department to have a fireworks display on July 25, 2014, subject to a certified copy of liability insurance is provided.

Motion by Steve Parish, Second by Brenda Cushey

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes, Motion carried.

The chairperson asked if there were additional comments from the public. No one requested to be heard.

The solicitor said the Board will go to executive session to discuss potential litigation.

Motion to go to Executive Session at 8:33 p.m to discuss potential litigation.

Motion by Brenda Cushey, Second by Larry Spahr

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes, Motion carried.

The Board returned at 8:47 p.m. The solicitor said that the Board discussed possible litigation involving the salt shed and no other matters.

Motion to adjourn at 8:48 p.m.

Motion by Brenda Cushey, Second by Larry Spahr

Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes, Motion carried.


Debra A. Nigon, Secretary