

Union Township Board of Supervisors
Regular Board Meeting
May 27, 2014

The Board of Supervisors Meeting was called to order by Chairperson Andrew Tullai at 7:10 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. Also in attendance, Dennis Makel–Solicitor, Mr. Carl DeiCas–Township Engineer, Judy Taylor–Treasurer, Debra Nigon–Secretary, Harold Ivery–Building Code Official, and Peter Grieb–Code Enforcement Officer.

Public Comments

Frank LaTorre, Boyka Plan, thanked Mr. Parish for ensuring that a fence was placed around the hole near a Boyka bus stop and thanked Mr. Banahasky for cleaning up some gravel on Boyka Road that he had requested be done. Mr. LaTorre also mentioned that Tomko, starting at 6:30 or 7:00 in the morning, has 10-15 20-ton trucks per day continuing to haul up the hill where they are not supposed to be grading. He would like the Board to reconsider the Dust Ordinance which recently had been proposed and failed to get sufficient votes for approval.

Hal Brienig, 44 Finley Avenue, said that, since he lives directly across from Tomko, he was asked by several people to find out what was going on there. He said no one sees what is being done at Tomko because the view is blocked by container trucks which are stacked one on top of the other. He said he doesn't understand Board's reasoning in not passing the recently proposed Dust Ordinance, because he believes it to be a health issue, and a neighborhood resident is willing to testify regarding the impact to her health. Mr. Brienig showed the Board pictures of dust flying during the work at Tomko. Mr. Brienig also said that there is some type of retention pond on the Tomko property that is causing a wetlands area between the Tomko business and Giant Eagle.

Solicitor, Chris Furman said that he had requested Mr. Brienig to obtain photos in case the Township wanted to move forward on some type of legal action. He further said that the Township Engineer will be sent out to see how much progress has been made on the conditional permit from the DEP to correct a hazardous condition. Mr. Furman said that no verification of the conditional permit had been provided from the DEP and all that was obtained was a forwarded copy of an email from the DEP to Tomko authorizing correction of the safety issue. Mr. Furman also said that the Township will be sending out a notice of violation depending on Mr. DeiCas' opinion regarding the purported safety issue. Also, he said that the Township could seek Contempt of the Court Order which was recently obtained following the Township's recent lawsuit against Tomko. Mr. Ivery said that he has already prepared a Notice of Violation which is ready to be sent. Mr. Ivery also added that the Township engineer is being sent to verify if there is a safety issue, and if there is no safety issue, then there is no grading permit. Mr. DeiCas will call to make arrangements to visit their property and view the situation. Mr. Ivery said that he asked for written confirmation of the conditional permit from the DEP which he still hasn't received.

Mr. Baumgardner, 47 Cardox Road, said that the air quality monitors in his home recently spiked to 400 and that his family continues to have stress due to the drilling. Also, he said that, in his bedroom with the windows shut, he recently received 68-74 db level readings, and he demonstrated to those attending, using a whistle and decibel reader, how loud that level sounds to those living nearby. He said that he had a video that could also be played. He also said that he reported the air quality to the DEP.

All others who signed the book chose not to comment at this time.

Departmental Reports

Recreation Board. Jason Jaki delivered the Recreation Board report. He asked the Board about purchasing six benches and six trash receptacles for Brownsville Park.

Motion to approve purchase by the Recreation Board of six all-weather steel benches for \$448 and six expanded metal trash receptacles for \$241 each.

Motion by Larry Spahr, Second by Brenda Cushey

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

Jason Jaki said that he would like to meet with Carl to discuss drainage issues at Brownsville Park because of water that has been pooling at the corners of the park which takes days to drain. Also, he would like him to estimate the cost of widening the entrance and road from the upper parking lot down into the park. He said that, on a Saturday when there is a function, two cars can't pass one another safely on the road to the upper parking lot due to the steep slope down into a gully and issues with the grass being eroded away.

Motion to authorize the engineer to review the drainage issues and estimate the cost of widening the road from the upper parking lot to the bottom parking lot.

Motion by Brenda Cushey, Second by Larry Spahr

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

Zoning Report. Mr. Grieb and Mr. Ivery delivered the Zoning Report. There were several cases which have gone to the magistrate. Mr. Briscoe's case was continued. The magistrate's ruling on the sewerage issues involving Mr. Polcawich, owner of 215 Collins Avenue and 7 Old Route 837, was that Mr. Polcawich must tap in both properties within thirty days. Also before the magistrate was the water issues at Tuscan Estates. Mr. Ivery reported that Earl Danielson or a representative for Quaker Engineering did not show up at the hearing; therefore, the Township, won the case and the Township was awarded a fine of \$500. Mr. Earl Danielson received a guilty verdict. The magistrate encouraged Mr. Grieb to continue issuing citations on a daily basis. Mr. Grieb said that, since Mr. Danielson has already been found guilty, the fines will keep piling up.

Mr. Spahr said that a Mr. Ray Novak contacted Harlan Shober inquiring about the issues at Tuscan Estates and the resident had asked Mr. Shober if the County could do anything about removing junk piled in front of some of the homes. Harlan Shober told the resident that what he was asking was not a County function, and directed him to Mr. Spahr. Mr. Ivery and Mr.

Grieb think that it may not be junk but equipment and construction materials which have been left on the undeveloped property, and they will go out to verify what has been left on site.

The solicitor had no report except what was on the Agenda.

Mr. Deicas, Township Engineer, said that most of his items were on the agenda for discussion but noted that he had left an item off his report in regard to Agulia Lane, which repair would involve a poured in place inlet box because a standard inlet box could not be purchased and set in place. The project would cost about \$25,000.

Motion to approve the Minutes of the April 28, 2014 Regular Board Meeting, as presented by the Secretary, subject to being true and correct with revision on page 4.

Motion by Larry Spahr, Second by Steve Parish

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

Motion to approve the Minutes of the April 30, 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 May 12, 2014, Regular Board Meeting as presented by the Secretary, subject to being true and correct, with noted revision page 4.

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 approve the Minutes of May 12, 2014, Rezoning Request Continued Hearing 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 Payroll #10 dated May 9, 2014, in the sum of \$14,093.24 as presented by the Treasurer, 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 #11 dated May 23, 2014, in the sum of \$9,051.81 as presented by the Treasurer, subject to being true and correct.

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 approve general fund bills in the sum of \$36,067.47, as of May 27, 2014, as presented by the Treasurer, 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.

Old Business

Carl DeiCas discussed the EQT sound study. He said that he spoke with Nathan Manchin in regard to the numbers and, in order to enforce the Ordinance, the Township would have to select one of the six points as a baseline or take an average of selected points, such as points three and four as the baseline. The engineer said that point number two doesn't affect any residents and neither does point number six. Mr. DeiCas said that the reason that the second study was requested was that the point where Chesapeake obtained the ambient levels was not a point that affected anyone living there, which was at the well site, which is why another study was needed so that it didn't make sense to include a point at the well site. He said that since the numbers and figures have already been recorded, there has to be some agreement and settlement of the issue of what to consider the ambient baseline so that the Ordinance can be enforced.

Mr. Peter Grieb, Code Enforcement Officer, read excerpts from the Oil and Gas Ordinance and said that the enforceability of our Ordinance is unclear. He said that, even if we accept the 72 hour sound study performed by EQT, if there is a complaint and the Code Enforcement Officer measures the sound level and says that it is over what is permitted according to the Ordinance, the only course of action provided by the Ordinance is for the Code Enforcement Officer to notify the party in violation that they would need to perform another 72 hour sound study within 24 hours. He said that the sound threshold at 60db at the property line after business hours is the threshold level determined in most noise ordinances in other Townships where Municipal Consulting Services operates, which are more typical noise ordinances designed for restricting the noise permitted at commercial establishments. He said that the Oil and Gas Ordinance for Union Township tries to make the noise issue more specific to the Oil and Gas industry; however, in doing that, it also makes it more convoluted and difficult to enforce for Code Enforcement. Mr. Manchin said that the threshold should be measured at 100 feet from a protected structure as it says in the Ordinance (which would put Union Township's level at around 50db per Peter Grieb who said that, if they operated at that level, it would be operating very quietly). Mr. Grieb said that 60db at the property line is reasonable. A lawn mower is at about 90 db. For anything over 85 db, OSHA requires ear plugs. He said that the current Ordinance allows spikes higher than the allowable threshold level for intermittent periods of a minute or several minutes, but the majority of the noise would have to stay around 60 db. Mr. Grieb said that the Township needs to accept a decibel level as the ambient level so that he or Mr. Ivery can go out with a sound meter and say, per the Ordinance, at this time of day, EQT is either in violation or not.

Mr. DeiCas said that his recommendation is that the Board pick one of the points as the ambient level basis, that the rest of the Ordinance, from which the peaks and valleys can be measured.

Motion to accept the ambient level Point 4 from the EQT Sound Study, at 40.7 db.

Motion by Brenda Cushey, Second by Larry Spahr

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

Mr. Tullai said that he saw an email about the water impoundment and that work is scheduled in 2-3 weeks. Mr. Manchin said that was correct.

Mr. Baumgardner prompted Mr. Furman to address Federal regulations and the labeling of hazardous waste. Mr. Furman said that gas well water is exempt from Federal Standards. He further explained that a truck from a well-site won't have a label cautioning about hazardous waste or chemicals like another business might have to show and that it does not matter whether or not a drilling company calls the water impoundment a freshwater impoundment because they are not subject to Federal regulations requiring any hazardous chemicals to be labeled on vehicles transporting the water. The Board requested that Mr. Furman research freshwater impoundments to learn more about what is being permitted.

Motion to approve the easement agreement before the Board subject to revising the grantors and consideration for remuneration to \$1 dollar with the Township engineer providing the easements widths and revised drawing, to be presented to Mr. Snee for approval.

Motion by Larry Spahr Second by Brenda Cushey

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

Regarding the Coal Bluff Slide, the engineer's estimate was at about \$30,000 which includes another new slide which is minor and should be able to be done for that amount as well. He also added that some rip rap would need to be placed. The Treasurer reported to the Board that \$108,000 is currently in the slide account.

In regard to the McChain slide, the property owner couldn't meet with Carl DeiCas prior to the meeting, and he will try to meet with him next week and Dennis Makel is to attend as well. Mr. Furman mentioned that he is deposing him next week.

Motion to advertise for bids to repair two slides on Coal Bluff Road with the engineer to prepare bid specifications with bids to be opened at 3:00 p.m. on July 11, 2014 in preparation for review by the Board at the Regular Board Meeting to be held on July 14, 2014 at 7:00 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.

Mr. DeiCas said that the Parking Lot Inlet Replacement Project is a simple project but the contractor did not send a contract. The Board agreed that Mr. DeiCas could send a letter requesting the contract to be sent in two weeks of receipt or the Township will pull the bid.

Motion to Adopt the Flood Plain Ordinance No. 2014-02.

Motion by Larry Spahr, Second by Steve Parish

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

Officer Pocsatko said that all that remains in removing the guns from the evidence room is loading them up and taking them to the recycler to be destroyed in McKeesport. All evidence lists are fine.

Mr. Furman had nothing on the Act 13 analysis to provide, but said that this work has not been assigned to him yet by Makel & Associates.

Ms. Taylor said that she contacted Perryopolis Auto Auction regarding the sale of the Sterling. It is a dealer only auction and not open to individuals. It would only have to be advertised once, not twice as if you were to put it out for bid. There would be both a buyer's and seller's premium. The premium would be something akin to \$140 on every \$3000. The International was valued for trade-in at \$28,500 by International, and valued at \$22,000 by Woltz & Wind.

Motion to advertise the Sterling truck with snow plow and spreader, as is, with a minimum bid of \$25,000 with bids to be received by 3:00 p.m. on July 14, 2014 and awarded to the lowest responsible bidder at approximately 7:00 p.m. on July 14, 2014, with the Township reserving the right to reject any and all bids.

Motion by Brenda Cushey, Second by Steve Parish

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

Andrew Tullai met with three owners of trees in violation of the Airport Ordinance. He said that there are total of five owners, and that he hasn't been able to get in touch with them all yet. He has met with a tree cutter.

Motion to approve the Change Order No. 1 to the 2013 Paving Contract increasing the project in the sum of \$8,400.00 for installation of three type "M" Penn Dot inlets on Sawmill Road.

Motion by Larry Spahr, Second by Brenda Cushey

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

A resident on Maple Street said that he was happy with the paving job and that Mr. Steve Parish directed the crew to place a curb which directs the water much better than before. He thought that the contractor was doing a good job of putting down asphalt and thanked Mr. Parish.

Regarding micro-paving, Mr. DeiCas said that it was found that it doesn't work well on high volume roads, and is appropriate only on low volume roads as micro-paving wears off on a high volume road. Also he said that you can't wait for the roads to get too bad and the roads we have planned to do are cracking; so, if the Township wants to do micro-paving, then this would be the time. However, he noted that you can't do it when it rains, so it cannot rain for four hours until it sets and cures. Also, residents will have to be informed that they can't drive on it within four or five hours. The contractor is generally the one to notify residents.

Motion to advertise the 2014 Micro-Paving Project with the specifications to be prepared by the Township Engineer with bids to be received by and opened at 3:00 p.m. on July 11, 2014 and awarded to the lowest responsible bidder at approximately 7:00 p.m. on July 14, 2014 with the Township reserving the right to reject any and all bids.

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 award the 2014 Gas and Diesel Bid to Coen Zappi Oil with a delivery differential of 10 cents over the daily OPIS rack rate per gallon for both gasoline and diesel.

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 advertise for bid the McChain Road/Agulia Lane Erosion Repair Project with the specifications to be prepared by the Township Engineer with bids to be received by and opened at 3:00 p.m. on July 11, 2014 and awarded to the lowest responsible bidder at approximately 7:00 p.m. on July 14, 2014 with the Township reserving the right to reject any and all bids.

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 adopt the Jaki Findings of Fact and Conclusions of Law prepared by Dennis Makel per the Rezoning Request for the property owned by Jason Jaki and Gina Latona lot size of approximately 1.84 acres.

Motion by Larry Spahr, Second by Steve Parish

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

It was noted that a zoning map change will be needed. The solicitor will prepare an ordinance to amend the Zoning Map and the engineer will update the zoning map.

The Nike Site walk through was rescheduled until June 18, 2014 at 6:00 p.m. Secretary to tell Albert Banahasky.

Six or so homes on Overlook are illegally tied into South Park sewage line which was discovered when a contractor in South Park was digging at a lady's home to repair a gas line and hit the illegal sewage line. This caused much work for Andrew Tullai and Chuck Trax on the day of discovery. On contact by our Township engineer, South Park Township said that they were not ready to discuss a tap into their system, so we will need to wait to hear from them. They mentioned that the residents were illegally tapped and had not paid for sewage to their municipality nor any tap-in fees.

Joe Matey who resides at 5100 College Street, said that 5-10 years ago, the Township replaced a stormwater pipe on property up the street from him, with the replaced portion representing about 100 to 150 feet of installed pipe. He said that, now, the older section is clogged or possibly broken resulting in a hole in his property where the earth has sunken which was large enough he could not drive his lawnmower over it and had to fill it in. He said that it has been flooded three times recently, probably four times including today.

Motion to authorize the Township Engineer to meet with Mr. Matey at 5100 College Street to investigate storm drainage issues.

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 adopt a Resolution Recognizing Eagle Scout Michael Rizzo on achieving the rank of Eagle Scout

Motion by Steve Parish, Second by Larry Spahr

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

Mr. Parish will attend the ceremony and have the plaque prepared.

Motion to authorize the Township Engineer to review the plan of Union Gardens and to evaluate the type of grading permit and authorize an extension of the permit.

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 Martik Invoice #3 in the sum of \$83,041.11 for the Garage Addition Project which was reviewed and approved by 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.

Motion to authorize the engineer to review the grading being done on Tomko property and to authorize the solicitor to move forward with legal enforcement if needed

Motion by Larry Spahr, Second by Brenda Cushey

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

Ms. Taylor mentioned that Mr. DeiCas needs to revise the as-built for Gun Club Road and 7 Old Route 837.

Motion to authorize the Township engineer to locate taps for 215 Collins Avenue and 7 Old Route 837 owned by Eric Polcawich.

Motion by Steve Parish, Second by Brenda Cushey

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

Motion for Township engineer to revise the Elrama Sewerage System as-builts for 4444 Finley-Elrama Road for a new tap on Gun Club Road.

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 go to Executive Session at 9:55pm.

Motion by Larry Spahr, Second by Brenda Cushey

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

The Board returned at 10:12 p.m. Mr. Tullai said they discussed personnel matters. The secretary was asked to make a copy of the latest road crew applicants.

Motion to advertise for applications for a working road superintendent in Monster and the Observer Reporter to be due by

Motion by Brenda Cushey, Motion died for lack of a second.

Mr. Tullai asked to table a vote on advertising until there is more discussion and clarification as to what is most needed in the Township garage, one or two positions, and what those positions should be, a road crew superintendent or a business manager. It was mentioned that all the current road crew employees have four to five weeks vacation which they generally schedule in the summer months.

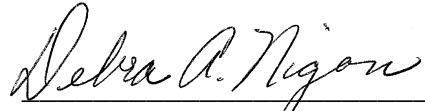
Board Approved: June 23, 2014

Mr. Tullai asked Ms. Taylor to have Mr. Makel draw up an agreement between the Township and Dawson Geophysical in regard to using SWRPD for the streets that affect traffic in Union Township.

Motion to adjourn at 10:24 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