

Union Township Board of Supervisors
Regular Board Meeting
June 23, 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. 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 Comment

Aaron Koch, Mingo Church Road, commented that he has a child who will be starting Kindergarten and that he is concerned that speeders will not see his child on that road due to the topography. Mr. Trax said that he drove over that way, and that the location of the stop is a hazardous situation. Mr. Trax and Mr. Koch said that they called the State and that the Township could take a picture and send it to Penn Dot with a letter requesting to erect a sign. Mr. Koch said that he would like two School Bus Stop Ahead signs, for cars travelling in either direction. Mr. Trax also suggested that the police put some officers there to catch speeders. Mr. Spahr also asked for Sergeant Pocsatko to map out some traffic controls. He asked him to look at McChain Road as well. Aaron Koch said the officers were welcome to use his driveway. Mr. Tullai said he would call the Road Foreman and ask the crew to paint the lines.

Gary Baumgardner, 47 Cardox Road, spoke about the sound study and the recent plume of black smoke that came off the site, and a rotten egg odor that accompanied it which he reported to the Code Enforcement Officer via email. He also wanted to speak on the status of Act 13. He said that Act 13 was immediately challenged and was never put into operation. He said that three major portions of the act have been struck down and all of it may be struck down. Mr. Baumgardner said that Section 32.18.1 of Act 13 only requires drilling companies to report spills to water companies and not to private individuals.

Mr. Spahr noted that an article on that subject appeared in the paper recently and added that the portions of the Act which have been struck down were ruled unconstitutional based, in summary, on the fact that they appeared to violate the residents' rights to clean air, pure water, and preservation of the environment and the municipality's obligation to preserve these rights and protect the best interest of the Commonwealth through zoning.

Mr. Makel said that one big question is what happens to the impact fees and will they need to be paid back if the entire Act is struck down.

Motion to authorize a letter to PennDot requesting two School Bus Stop Ahead signs on Mingo Church Road near the vicinity of the Koch residence and for the Township to purchase the signs.

Motion by Steve Parish, Second by Brenda Cushey

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

A resident, Anna Banahasky, 9 Banahasky Lane, commented that there was a garage building built next to her last year and that it is causing stormwater issues for her on her private lane. She said the new building is directing the flow of water onto her property and she is facing having to spend \$1500 on a curb to prevent this water coming onto her property. Mr. Makel said that she should send the garage building owner the bill for the curb or contact the Center on Aging to see if they would represent her in filing a case for her that the owner is liable. She wanted to know how the building permit issued by the Township could have been approved seeing that the building is causing her this problem.. Mr. Grieb said the owner of the garage met the requirements for a permit and that he is discharging stormwater onto his own property but, because her building is down hill, the water flows down onto her property.

Departmental Reports

Ms. Audrey Dorsen of the Recreation Board said that there is a signed contract for the Pavilion. Mr. Spahr asked Ms. Dorsen whether anyone spoke with her about a broken gate, and she has not heard from anyone yet.

Mr. Ivery said that Municipal Consulting Services attended the County Meeting for the eDocs County System which will enable them to link into the system and allow them to export their reports directly out of Microsoft Access and that the County is paying for the system. Mr. Ivery said that there will not be a need for paper reports. Also, he said that, by exporting out of the system to the County, it enables the County to update the tax records more easily.

Another item in Mr. Ivery's report was that BDH's permit was expired and was renewed. Also, the maintenance garage had its final inspection and everything looked good. Mr. Ivery also introduced a gentleman from The EADS Group, the Engineering group that prepared the Finleyville Airport Property Line Shift Plan, who came to address the Board's questions. Mr. Makel said that even though it was only a very small corner of land that is being sold, it is considered a subdivision, and requested that the name on the plan be changed to the Maer's Subdivision. Also a Sewage Planning Module was discussed. The EADS Group engineer said that he sent the plans over to the Peters Creek Sanitary Authority. He said that he also spoke to Rick Kovach who said that the property may be exempt but that he would need to verify that with the DEP. The EADS engineer asked whether the plan could be approved at today's meeting conditional of the plan meeting all sewage requirements. He was directed to contact Tom Wright of the Washington County Sewage Council in reference to the Sewage Planning Module exemption. Mr. Ivery said that one more question was what that property would be zoned. The Airport Property is zoned AP and the small piece being acquired is R3 and the zoning would remain the same for each. Mr. Makel said that a curative amendment would be needed to change the zoning of that small piece to AP if any change in zoning was necessary. The engineer said that it did not appear to be necessary as the property would be used as a buffer only. Mr. Makel said that he did not see a problem with it remaining zoned as it is as long as nothing will be being built on that property which the engineer indicated was the case.

Motion to approve the Minutes of the May 27, 2014, Regular Board Meeting, as presented by the Secretary, 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 the Minutes of the June 9, 2014, Workshop as presented by the Secretary, subject to being true and correct.

Motion by Steve Parish, Second by Larry Spahr

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

Motion to approve Payroll #12 dated June 6, 2014, in the sum of \$10,573.11 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 #13 dated June 20, 2014, in the sum of \$9,330.83 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 \$35,784.92, as of June 23, 2014 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.

Regarding the EQT sound study, Mr. DeiCas said that the results show three instances where the noise exceeded the allowed level and that all those times are shown to have been caused by a heavy rain storm. He said, according to EQT's data, which he would like to review more thoroughly to see exactly how it was calculated and how often a sample is taken, that it appears there is only one other time it came close but did not exceed the Ordinance. Peter Grieb said that he went out there once during the sound study and when he arrived they were not drilling but he was told by the person at the gate that they would be drilling soon. Mr. Makel suggested the possibility of situating a third-party sound meter at one point by the Baumgardner residence. Mr. DeiCas said that a third-party sound meter would enable the Township to verify the data. Mr. Baumgardner asked if we could change our Ordinance. Mr. DeiCas deferred to Mr. Makel who said that changing the Ordinance may only apply to future drilling operations. Mr. DeiCas said that the vote of 40.7 could not be used as the ambient level basis in interpreting the Ordinance as EQT was correct in saying that the Board could not approve that sampling point by Motion and that the figure of 49 db, which was recorded at the first protected structure, had to be the base point that is used per the Ordinance. Mr. Manchin said that drilling should be done at the end of July.

Mr. Makel asked about the smoke and the odor mentioned by Mr. Baumgardner. Mr. Manchin said that the drilling logs would show any hydrogen sulfide that was present and that he would check. Mr. Manchin said that the smoke was caused by the restarting of an engine, probably on one of the three generators that is on-site. He explained that, when the dual-fuel engines are started, they are started on diesel. One of the residents had taken some video of the

smoke plume that was the subject of the concern and it was reviewed at the meeting. The husband of the woman who took the video said that the plumes started at 4:00 p.m., and that, when he came home at 7:15 p.m., he could still see the plumes. On the video it appeared to have stopped earlier; however, Mr. Ivery confirmed that it was continuing on later despite it appearing as if the smoke stopped in the video, because he was at the Township building when he got the called-in complaint and when he went over to the site, at around 7:30 p.m., he saw one of the plumes go up himself. It appears the black smoke incident would have been on June 19 from 4:00 p.m. until about 7:30 p.m. Mr. Spahr asked Mr. Manchin for the dates and times when EQT was drilling to see how they coincided with the recorded meter readings.

Motion to have the engineer accompany Mr. Tullai to the airport property to mark trees.

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 the Comcast Cable Franchise Agreement dated June 23, 2014, as revised 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.

In regard to the Patterson Road Agreement, it was discussed that the drawing and agreement are completed; however, the agreement will need to be signed and the drawing which is completed needs to be attached, and it has to be signed before a notary and recorded at the Courthouse as well. Mr. Spahr asked who would make contact with Mr. Tomko and Mr. DeiCas said that he would coordinate.

In regard to the Coal Bluff Road Slide, Mr. DeiCas said a new slide is appearing that will take out the whole road. Mr. DeiCas said that the new slide could add another \$60,000 to \$90,000 dollars to the project, and he didn't know if the Board wanted to include that additional sum in the slide repair bid. Mr. Spahr asked if this will be a recurring problem. Mr. DeiCas said that this will be a constant maintenance issue because, after a few years, the leaves drop and the matting of the leaves over the stone drainage areas makes the drainage area ineffectual. He said constant maintenance will be necessary. The Treasurer informed the Board that there is some remaining fund balance in the Slide Account, which represents the funds assigned by the Board in the budget for slide repair, but that the additional sum, if it is added with the cost of the intended repair of the Agulia slide, which was in the \$35,000 range, it would go over what was left in the Slide Account and the Board would need to take some funds out of the General Fund to cover the overage.

Mr. DeiCas will send the Micro-Paving and McChain Road/Agulia Lane Repair advertisement to the Treasurer to put it in the Observer-Reporter. Mr. Makel suggested Judy email the ads to his secretary who can have it put in the paper more quickly. Mr. DeiCas suggested holding off on putting the repair of the Coal Bluff Road slide for right now until the Board takes a look at the problem. Mr. DeiCas said it was important that the whole Board see the slide area to give them a better understanding of the repairs and maintenance required.

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Motion to rescind the Motion of May 27, 2014 regarding the repair on Coal Bluff Road and amend the Motion to advertise for bids to repair the slides on Coal Bluff Road with the engineer to prepare bid specifications with bids to be opened at 3:00 p.m. on July 25, 2014 in preparation for the Board at the Regular Board Meeting to be held July 28, 2014.

Motion by Larry Spahr, Second by Brenda Cushey

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

Sergeant Pocsatko was asked about the gun status. He said that he has a new contact name in McKeesport. Also, he needs to go over the paperwork with the staff and the list of the guns he has at headquarters.

The contracts were received for the Parking Lot Inlet Replacement Project. If signatures are obtained today, Mr. DeiCas will send the Notice to Proceed.

Last week Mr. Makel, Mr. DeiCas, Mr. Trax, and Mr. Tullai looked at the McChain Road site and observed that there were trees on the top of the hill and it appeared that the dirt on the top of the hill had been up there possibly for 30 years; so, Mr. DeiCas and Mr. Makel talked about a temporary easement so that the Township could make the repair. Also, another inlet is needed and the grating from on top of the existing inlet was stolen. Ms. Cushey said that she called the police about it because Ms. Agulia had called her after she had almost fallen into the inlet. Mr. DeiCas said the grates could be bolted in so that the grate cannot be removed because there was no pavement around the inlet which usually makes it more difficult to remove the grating. Mr. DeiCas said that Mr. Corace had cleaned up where he had put the fill. Where the slide is occurring now is in front of the trees and there are houses that have been built up on top of the hill behind the slide which are most probably from the 70's or 80's. From Mr. Makel's perspective, from what he saw on top of the hill, it is a waste of money to pursue litigation any further, and he recommends an agreement that Mr. Corace not dump anything on his property any longer and that a temporary easement be given to the Township to repair the slide. He said that right where the bulge is in the hill is where the spring is located (it appears to be coming out of a coal mine). It requires a change in the slope and placing drainage in that area.

Motion to authorize Mr. DeiCas to prepare a survey and the appropriate specifications for repair of the slide adjacent to the Corace property on McChain Road.

Motion by Larry Spahr, Second by Brenda Cushey

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

Pertaining to Tuscany Estates, Mr. DeiCas said that he needs a copy of the Developer's Agreement. He said that he needs to know what is bonded, and with that list, he can tell what is incomplete. Mr. Ivery will provide that.

Motion to approve Change Order No. 2 to the 2013 Paving Contract in the sum of \$28,783.87 for the paving of a portion of 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 advertise for Adoption on July 28, 2014, Regular Board Meeting, Ordinance No. 2014-03, pertaining to an Amendment to the Zoning Map relative to the Findings of Fact and Conclusions of Law prepared by the solicitor following the Re-Zoning Request Hearing of Jason Jaki and Gina Latona.

Motion by Steve Parish, Second by Larry Spahr

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

In regard to 5100 College Street, Mr. Matey, the owner, said he has always lived there and that there is a good newer pipe flowing into a clogged pipe causing a hole. Mr. DeiCas said that he looked at the property, and in his opinion, in the past, the owners probably did not want a ditch in their yard so a pipe was placed to drain the water. Mr. Spahr said that since it is Township water and a Township problem, that the Township can fix the issue. Mr. DeiCas said that the Township can remedy the problem themselves. Mr. Trax can and is willing to run the back hoe to run new pipe past Mr. Matey's property to the creek.

Motion to have the Township install 15" pipe along the property of 5100 College Avenue for approximately 250 feet down to the creek.

Motion by Larry Spahr, Second by Charles Trax

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

Pertaining to the illegal tap that was found on Overlook Street, Mr. Makel said that there is grant funding available for next Spring for these types of repairs. Mr. DeiCas said that he would get a map made showing what EDUs are needed. Mr. Makel asked that the South Park correspondence be copied to Emily Shade and that we ask DEP to comment on the list of properties provided to the Township from South Park. The Treasurer reported that Washington County Sewage Council gave us a price of \$50/hour to perform the dye tests, their typical cost is \$155 per home. For the first meeting in July, it should be discussed further.

In terms of the Jack Street flooding and the possibility of applying for the DCED Flood Mitigation Grant, Mr. DeiCas said that the two bridges in that area need to be replaced; however, the grant application from the DCED required that we have all the permits in place and proof of them and the Township does not have those in place and could not have them in place in time to apply. Mr. DeiCas was instructed to contact the Army Corps of Engineers to begin the process of obtaining permits in preparation for next year.

The Martik invoice was held over because Mr. DeiCas said that he had just received it and has not been able to review it yet. However, Mr. DeiCas stated that the project is nearly done, except for some seeding and other minor issues which need completed relative to the laying of new conduit and installing a window.

Mr. Tullai asked the Supervisors to each go through the addition this week and provide any items for a punch list for Mr. DeiCas. Mr. Tullai asked about the camera and was informed that it is the Township's responsibility to have it put back up.

The Nike Site walk through which occurred last Wednesday was discussed. Mr. Tullai said that the Board members looked at all the structures and surveyed the property. Mr. Tullai mentioned the well that he thought was at the launch site; however, the well turned out to be at

the Maple Street site. Mr. Tullai said that the documents sent by the Army require the Township to not disturb the land for .01 acres around this well bore due to contamination.

Motion to accept the Deed from the U.S. Army Corps. of Engineers for the Nike Site.
Motion by Larry Spahr, Second by Brenda Cushey
Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes. Motion carried.

An adjacent landowner to the Nike Site who was in attendance said that he had been offered the property and had turned it down because he didn't want to be concerned about the contamination and any run off from contaminated land which he was concerned could cause lawsuits. It was noted by the Board that the Army removed a lot of the contaminated material in barrels and remediated much of the contamination that was there on the site. It was noted that there are asbestos tiles in the buildings which are 10x10 remnants that are still remaining as well. Mr. Spahr said that, for 50 years, the water run-off has been going somewhere. It was noted by several supervisors and the solicitor that there are grants available to clean up any contamination. There was some discussion of trichloroethylene which is the contaminant at the well bore on the property which an individual in the audience indicated was an industrial cleaning agent. It was also discussed that in the 50's this chemical was used in food and other products including use as a dry cleaning solvent. Mr. Tullai and Mr. Parish said that, during their walk-through, a building at the Nike Site was identified as a good location for a security camera; however, the camera will require power in that area for the camera to be operational. Mr. DeiCas will create specifications for camera installation at the site.

Mr. Tullai inquired as to whether the Community Block Rehabilitation funds could be used for demolition and rehabilitation projects. In regard to the CBDG grant funds which were held over until this year, Ms. Taylor agreed to call the CDBG to see what the requirements would be for a rehabilitation project and whether income surveys of affected residents would still be required. Mr. Ivery is to provide a list of addresses for demolition.

Motion to adopt a Resolution, No. 06-2014, opposing an Amendment to Act 13 of 2012 that would reduce the Amount or Allocation of Unconventional Gas Well Fees, "Act 13 Impact Fee" to Municipalities Affected by Gas Exploration Activities."
Motion by Larry Spahr, Second by Brenda Cushy
Roll call vote: Parish-yes, Spahr-yes, Tullai-yes, Cushey-yes, Trax-yes, Motion carried.

It was mentioned that the engineer still needed to locate the lines in regard to new taps on 4444 Finleyville-Elrama Road and Mr. Polcawich's property. Mr. DeiCas will ask about the Y sheets for Mr. Polcawich. Mr. Grieb said that he found one of the lines by accident. Carl will contact Kim Gales to see if she has any Y-sheets because without those it would be very difficult to locate. For 4444 Finleyville-Elrama, he needs some type of drawing. Ms. Taylor will provide the plan to him.

A mention was made that the Board had been notified that there was a property in the Township which had not been re-assessed as it should have been. Mr. Spahr said that the property was a barn which had been remodeled into a home 20 years or so ago and that the property had never been re-assessed, and the last assessment was some years back. The

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person who owns the property contacted the County due to a state issue and the County notified and sent assessors down there to perform the reassessment.

The Chairperson asked if anyone would be able to meet with Diane Holder from First Energy in response to her request for an annual meeting on power related issues. Last year she met with Mr. Ed Frye. Mr. Parish asked for time to check his schedule.

There was brief discussion of PA American Water contacting the Township trying to locate an agreement between the Township and PA American concerning ownership of the road into their facility. The agreement would have gone back to a time when Union Township Police Officers were providing security to PA American during their off hours, which would have occurred at some point following the 911 twin tower attack when extra security was deemed a necessity. It was noted that the call was prompted by a recent strike at PA American and issues they were having with striking workers blocking the road and gate entering the plant. The solicitor said that any agreement did not address a legal strike and said that PA American should file an injunction.

Motion to go to Executive Session to discuss personnel and litigation at 9:45 p.m.

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 10:08 p.m. The solicitor said they discussed litigation involving Tomko and issues involving personnel.

Motion to advertise for a Workshop Wednesday July 2 at 6:30 p.m. for a mid-year budget review and other purposes.

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 adjourn at 10:10 p.m.

Motion by Steve Parish, Second by Larry Spahr

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

Debra A. Nigon, Secretary