

Board Approved: September 22, 2014 with minor revision as noted.

Union Township Board of Supervisors
~~Regular Board Meeting~~
Conditional Use Hearing – EQT Water Impoundment
August 27, 2014

The Conditional Use Hearing before the Board of Supervisors was called to order by Chairperson Larry Spahr at 6:31 p.m. The meeting was held at the Union Township Municipal Building, 3904 Finleyville-Elrama Road, Finleyville, PA.

Board Members in Attendance were Stephen Parish, Larry Spahr, Brenda Cushey, Charles Trax, and Paul Chasko. Also in attendance, Chris Furman–Solicitor, Debra Nigon–Secretary, Harold Ivery–Building Code Official, and Peter Grieb–Code Enforcement Officer.

A court reporter was also present, as customary and required, to record an official transcript of the hearing. *(Please note that the Minutes are a paraphrased summary of the proceedings originating only from the Secretary's notes and are not a transcript).*

Mr. Spahr explained that the hearing was being held because EQT was pursuing a permit for an impoundment pond on the Trax property where drilling is occurring. He made all those present aware that this was an official proceeding and would be conducted in an orderly fashion. He requested that all residents sign-in who wanted to comment. He also reminded those that had not signed-in to do so should they decide later to ask questions. He also announced that a gentleman was present representing a resident of Cardox Road who would be making a presentation later in the hearing.

The solicitor for Union Township, Mr. Chris Furman, asked all the representatives and experts from EQT who were in attendance to rise and be sworn-in by the Court Reporter. He indicated that residents would be sworn in later in the proceedings. Mr. Furman then entered all the exhibits into the court record:

- Exhibit A – Legal Notice of the Conditional Use Hearing which was sent for publication.
- Exhibit B – Proof of Publication in the Observer Reporter on 8-13-14 and 8-20-14
- Exhibit C – Impacted Residents List, those living within 300 feet of the site
- Exhibit D – Certified Mail Receipts to the Impacted Residents (It was noted that the list had had two addresses with a city and zip of Washington, PA which were subsequently sent correctly to South Park, PA)
- Exhibit E – Photograph(s) of the Posting of the Property

During the course of the hearing, several other exhibits were added as follows:

- Exhibit F – The Hard-Bound Conditional Use Application Prepared for EQT Construction Company by Langan Engineering and Environmental Services, dated July 1, 2014
- Exhibit G – Minutes of the Union Township Planning Commission for July 24, 2014
- Exhibit H – Photos of fence installation
- Exhibit I -- EQT Correspondence from Renee Thomas, Landman II – Permitting, with attachments, dated July 28, 2014

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Nathaniel Manchin, EQT Community Advisor, introduced the experts and representatives attending who were present to answer any questions the Board or the public may have parties present from EQT:

- Todd Klaner – Permitting Supervisor
- Casey Durdines – Community Advisor
- Stephanie Paluda – Community Advisor
- Brian Welsh – Construction Super
- Daniel Ruth – Senior Water Management Field Technician
- Ron Furby – Senior Water Manager for EQT

Todd Klaner, Permitting Supervisor, provided the details of the water impoundment construction to the Board. Some of these details were that the impoundment pond would take three weeks to construct, has a 15-acre project area, would have a 1.3 million gallon capacity, and would contain freshwater only. It was mentioned that the impoundment will connect the well site and hydrants with above ground piping. Mr. Klaner reviewed the permits for the Board and the status of approval. Most permits had already been approved with one being due soon. He also said that the impoundment would be reclaimed and restored to the previous condition at the end of the project once vegetation was established and the ground was no longer frozen. Final reclamation by EQT is intended to create no additional storm water run-off.

He said that the anticipated usage of the freshwater is 1.2 million gallons per day, and that the volume of water in the pond would replace approximately 384 trucks per day of strictly water traffic.

Mr. Manchin, Community Advisor, said that EQT is scheduled to begin fracing at this site in the first week of October.

Following the presentation, questions from the Supervisors followed.

Mr. Spahr asked about traffic control on Route 88 and Mr. Klaner and Mr. Manchin said that they did not see that as necessary because there was a clear line of vision.

Mr. Chasko and Mr. Parish both asked for confirmation that the project will be done by Spring of 2015. Mr. Parish also seeked confirmation that the drilling at the well site would not resume nor would the site be expanded when fracing was complete. The EQT representatives confirmed that they expected to be done by that time and to have the location, weather permitting, restored to its original state.

Mr. Chasko asked why a sedimentation filtration system was needed and was informed that the reason was for erosion due to surface water run-off.

Mr. Parish inquired about the number of trucks needed to haul out the water used in the fracing process. The answer from the water management expert(s) from EQT was that the number of trucks needed is minimal compared to the number which would be required for the fresh water should there not be a freshwater impoundment. He said that during fracing more trucks are needed initially to haul out the flow back and that the number decreases as the fracing process

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continues. He said that, since some wells have more water coming back out than others, he could only speculate that initially there would be a couple thousand barrels per day requiring 10 to 20 trucks daily at the outset. Mr. Parish also verified that fencing around the impoundment would be locked.

The Township solicitor inquired as to where the water coming out of the well would be stored prior to being hauled away by the tanker trucks. The Senior Water Management Field Technician said that the water will be stored in a tank on-site before it is put on the truck. He said that typically on-site there are ten 500-barrel tanks which stand as permanent fixtures in a contained area.

The solicitor asked any residents who wished to comment to stand up and be sworn in prior to giving any comments. Mr. Bob Donnan was then invited to give his presentation on Shale Drilling Impoundments, on behalf of Gary Baumgardner, a resident of Cardox Road, who could not be present. Mr. Donnan was asked to provide his credentials. Mr. Donnan said that he was a photographer and retired landscaper. The solicitor for EQT, who had arrived later in the meeting, questioned the relevancy of the presentation due to Mr. Donnan not being an expert in the field and objected on the basis that a production pit or flow back fluid pond was not a part of the application they were pursuing. Nonetheless, Mr. Furman said his presentation would be allowed to proceed as this Conditional Use Hearing was a public meeting and that Mr. Donnan was representing a resident and taxpayer.

Mr. Donnan provided a Powerpoint presentation showing various photographs of impoundments, not necessarily operated by EQT, but which appeared to contain murky and discolored water and were located in outlying areas identified as an impoundment in Hopewell Township near Buffalo PA, Carter Impoundment in Mt. Pleasant Township, Yeager Impoundment in Amwell Township, Worstell Impoundment in Cecil Township, Hibbitts Impoundment in Claysville Township, Lowry Impoundment in Cross Creek Park, as well as others. These impoundments were later identified as being evaporation pits operated by Range Resources.

During his presentation, Mr. Donnan said that freshwater means only fresh to the site and commented that some of the impoundments in his presentation began as freshwater impoundments and were then converted through application with the DEP into impoundments holding flow back fluids which can contain hazardous substances. As he went through a slide for each site, he made comment about complaints or accidents which have occurred at each site which varied from complaints of illness, noise and odors to having had contaminated groundwater and wells, radioactive sludge and/or high levels of chloride or other contaminants. Mr. Donnan also cited several accidents and spills which have caused environmental pollution in some of the locations. He showed a list of reasons spills occurred which included leaks from the pit, a transfer line or pipeline link, valves left open, an overflow of the impoundment, gaps in liner, and others. He showed a list of companies having and reporting spills from 2005 to 2012, on which list EQT did appear. He also made note of House Bill 1542 a state bill which would require no open pit water impoundments but closed cycle only.

Mr. Donnan also said that Mt. Pleasant Township questioned Union Township allowing an impoundment by Conditional Use versus Accessory Use.

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Tony Cecchini, 53 Cardox Road, expressed concern, due to some threads he saw on-line regarding flow back fluids going into an impoundment. Also he noted the size disparity between the gallons of fluid being pumped into the well versus the relatively small capacity of the on-site tanks to be at the Trax location, and wanted to know whether a freshwater impoundment could contain flow back fluid.

Mr. George Powell, 4297 Finleyville-Elrama Road, said that he did not want Mr. Donnan's presentation to represent his sentiments on the impoundment because he has spoken to individuals who have lived near well sites and impoundments who have had no complaints of noise, odors or any other issues.

Ms. Betsy Zang, 554 Cortland Street, resident of Peter's Creek Orchard Hill Plan, a Ryan Plan just over the Township border from the Trax well site, expressed regret that she built her home on what she thought at the time was a one-well property which ended up being expanded to its current 11-well size, and said that she has had trouble sleeping due to the noise and has been bothered by the odors. She asked what the company intended to do about discouraging insects and wanted to know if there would be insecticides or pesticides used. She also asked if there would be another Conditional Use Hearing if the company decided to use the impoundment for flow-back.

Mr. Edward Vero, 65 Cardox Road, said that his property abuts the Trax property down the hill from where the containment pond will be located, although he has not yet seen the plan. He said that although he has no current problems with EQT and feels they would do a good job, if something were to go wrong, he wanted to know what fail safes would be in place and how they would stop the water from running down onto his property.

The EQT representatives responded to each commenter individually following each of their comments, and, in summary, responded that, in the past, if the requirements for a flow back permit from the DEP were met, then flow back could be put into an impoundment. However, according to current process, if they were to desire to convert an impoundment, they would need to apply for a major modification of their DEP E-SCGP permit to allow for a decentralized waste impoundment. A modification would also need to be sought for the Conditional Use which could not be done without the public having a second opportunity to comment, which is not what they are seeking or intend to pursue. Also the impoundment would need to meet the soils criteria, which currently would mean that the high ground water table would need to be more than 20 inches from the bottom of the liner, and, in the case of the proposed freshwater impoundment at Trax, the soils criteria is not conducive.

Mr. Klaner stated that the freshwater impoundment would never be a frac waste water pond, and that no need for insecticides or pesticides would be necessary as it would contain only potable water.

They also gave some specifications for the 60-mil liner, which is air tested, and indicated that it is EQT's practice to build the impoundments for freshwater and production ponds with the same materials and in the same manner. It was also explained that there would only be one man door for anyone to get into the impoundment and that it is inspected frequently. In

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response to the concern of Mr. Vero, who lives down hill, if there were some catastrophe, such as an earthquake causing water to spill out onto his property, EQT said they would be responsible for damages.

Mr. Parish inquired as to whether monitoring wells would be put around the impoundment to test to make sure there is no contamination, to which they responded in the negative as it would be a freshwater only impoundment.

Ms. Cushey inquired as to how it would be kept from overflowing in heavy rains. They said that given the specifications, they did not foresee that happening.

Mr. Parish inquired about the above ground piping system and wanted to know how they could keep the used frac water from flowing back should a mechanical failure occur. He was informed that the lines for the flow back were entirely separate from the fresh water side and that water from the freshwater impoundment would be going downhill from a higher elevation, and further provided their technical reasons for how water could be prevented from back flowing into the impoundment.

Mr. Chasko asked if there would be a heating system for the lines due to the cold weather season approaching. No heating system will be used and the lines will be kept open through circulation.

Larry Spahr asked Mr. Donnan, the gentleman who gave the presentation on various impoundments, if most of his exhibits were of evaporation pits which he confirmed that they were, but noted that they started out many times as freshwater and were converted.

Mr. Spahr also said that a Special Exception did not apply and a Conditional Use process was pursued because, per the Township's Zoning Ordinance, this activity is classified as a Conditional Use and not a Special Exception. Counsel for EQT also said that originally a Conditional Use was granted and this hearing is for a Supplemental Conditional Use for the water impoundment.

The solicitor for Union Township noted that the Planning Commission had a list of items on which their approval was pending.

The items on the pending list were as follows:

1. Letter addressing storm water management that meets the Township Ordinance
2. A drawing showing a fence around the impoundment
3. A written statement saying that water will not flow back into the pond
4. An ESGP-2 permit
5. Approval/permit for a temporary waterline
6. A grading permit from Union Township, if applicable.

In regard to the stormwater management issue, EQT said that they had requested our engineer to send the Stormwater Ordinance which they have not yet received.

In regard to the second item, EQT provided copies of photos of a fencing installation which were entered into evidence as Exhibit H. Mr. Ivery also provided correspondence from EQT,

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dated July 28, which the solicitor entered into evidence, transmitting a copy of a drawing showing the fencing surrounding the impoundment which was entered into evidence as Exhibit I.

In response to item three, no written statement was provided. However, Mr. Klaner from EQT said he was making the statement, now, at the meeting, that water “will not flow back into the pond.” Mr. Lucas also said during the course of the meeting, that the Board could put in bold letters that the impoundment would contain only freshwater and not any type of flow back.

In regard to item four, the correspondence of July 28, Exhibit I, contained an eFacts printout showing the ESGP-2 Permit was currently accepted by the DEP and undergoing review. Mr. Spahr said that the DEP must be notified 7 days prior to construction to ensure erosion sedimentation controls are in place.

In regard to item five, they are expecting to receive approval for the temporary water line by September 5, 2014.

In regard to item six, EQT said the company was more than willing to apply for a grading permit if it was necessary and had contacted the Township Engineer, Mr. Carl DeiCas, to see if was a requirement in this instance and has not yet heard back.

Mr. Ivery commented that road bond applications and bonds were received for a section of Trax and Sugar Camp Road.

Mr. Ivery also inquired, as a Building Code Inspector, about the pipes used and wanted to know what standards had to be met and what organization governed those standards and who was responsible for inspection. Mr. Klaner did not provide this specific information. However, he did say that the welds are stronger than the pipe itself and said that the pipe is pressure tested and that the HDP is pretty much the same as what municipalities use for their waste.

Per inquiry by Mr. Parish, two municipal hydrants will be used as connections for the water. They explained also that the water would be coming in from a 6” line coming from Peters Township at a rate of 400 gallons per minute solely under municipal pressure. They said that the water lines would be manned at the pit twenty-four hours should any change in municipal pressure occur.

The applicant was asked to provide additional statements or exhibits.

No other statements or exhibits were provided. However, EQT did request a decision by the Board on the basis that the approval of the Conditional Use is limited solely to a freshwater impoundment which would provide a dramatic reduction in the trucks required on-site. In light of this, and their schedule, the EQT solicitor asked the Board to approve the Conditional Use before concluding the hearing even though he is aware that the Board has a 45 day period during which they may make their decision.

The Township solicitor, Mr. Furman, asked for a future date by which the company would need to know the approval status in order to prevent the freshwater delivery by truck. They said that

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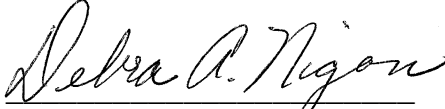
fracing is to begin the first week of October; so, ideally, they would need to begin construction next week. They also said there would be a three week construction period to build the pond, and notifications would need to go out to DEP and a One-Call would need to be placed which will take a month.

The record on the hearing was closed at 8:05 p.m.

The Chairperson asked, that with their schedule in mind, if the decision could wait until September 8, 2014, the next Regular Board Meeting. The gentlemen from EQT said that if they did not receive approval from the Board in sufficient time, it would be necessary to begin bringing the water in by truck and that their schedule would not be altered.

Mr. Spahr said that a permit cannot be denied where all conditions have been met and that all the Board could examine were whether all the reasonable conditions were met, which by law cannot be arbitrary or capricious. It was decided to give the decision for or against approval of granting the Conditional Use at the Regular Board Meeting to be held on September 8, 2014. During that time, Mr. Furman will draft the Findings of Fact and Conclusions of Law for approval by the Board.

Hearing was closed at 8:10 p.m.


Debra A. Nigon, Secretary