

Union Township Board of Supervisors
Regular Board Meeting
December 8, 2014

The Board of Supervisors Meeting was called to order by Chairperson Larry Spahr at 7:05 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, Charles Trax, Paul Chasko, and Edward Frye. 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 could not attend.

Mr. Spahr discussed articles in the recent Township News which discussed health care in relation to federal and state laws. He said that there are requirements under these laws to prevent discrimination and to ensure that all employees are treated fairly and equitably in their benefits and wages. He advised all Supervisors to read these articles closely and advised Mr. Chasko and Mr. Frye, as new Supervisors, to obtain a copy since they would not have received one in the mail.

Mr. Spahr introduced and welcomed Edward Frye to the Board of Supervisors.

Mr. Parish inquired of the solicitor whether there was an issue with the appointment of Ed Frye to the Supervisor position as there are time limitations in the Township Code governing how much time can pass between a vacancy and an appointment by the Board. It was discussed that Brenda Cushey's letter of resignation was accepted on October 13. By Motion, letters of interest were accepted until November 8. Mr. Spahr said this was to give interested individuals adequate time to submit a letter. Mr. Frye was appointed November 24.

Public Comment

Mr. Joe Matey, 5100 College Street, said that his property line has been marked as had been requested at the last meeting due to questions as to whether the pipe was on private property and whether the Township could go on private property to replace the pipe. He showed the Board a picture of his property with the line marked. He said that the white line on the picture is the property line and that the red line, which is outside the property line, represents the drain. He said that, up until 1985, the road was gravel and not asphalt so there were no barriers to putting the pipe in any particular place. He asked for a date that the work would be done as he is planning a new driveway/garage. He said that his property does not flood on a slow rain, but will flood on a hard fast rain. He gets the most flooding in April, May and June. Since he said the job did require asphalt and the asphalt plant is currently closed and not due to open again until April, he asked that **by May 1, 2015, that the project be completed.** Mr. Spahr asked for big highlighting in the Minutes and on the calendar so that this date is not missed.

Mr. Banahasky wanted to know whether the road was a Township Road and if Liquid Fuels funds were received. Mr. Matey said that the pipe is not on his property but that the pipe goes

under the ramp that extends from the road to his driveway. Mr. Parish asked for the pegs marking the drain and property line to remain in place to ensure the Township does not cross onto his property.

Mr. Baumgardner, 47 Cardox Road, asked to speak regarding complaints relative to the EQT drilling site near his home on Cardox Road. He said for two months they have had quiet, but since Friday, December 5, he has had various issues and has sent various emailed complaints to the Township engineer, solicitor, zoning and code enforcement officers, EPA, DEP and National Response Team. On December 9, he said he could see a foot and half thick, solid white fog on his yard obscuring his lawn. However, he could see trees many yards away clearly. At that time, he said he also had air monitoring readings in the red and it smelled like sulfuric acid and rotten eggs which gave him a sore throat. Later he experienced vibration in his home causing pictures to come down in his Master bedroom and he described the noise as sounding like a freight train. He gave the Board various decibel readings in the 72-75 decibel range which he took himself during this time frame. On Saturday, he said that there were plumes of white smoke coming from the site and he could not stay at his residence. Mr. Baumgardner said that, per his research, the smell is related to hydrogen sulfide which is a known hazard. Also, he said that it was his understanding that once a noise complaint was lodged, a sound study would have to be conducted by EQT. He wants the sound monitors in his back yard, not placed in various locations and averaged as in the past.

Stephanie Paluda, EQT, was asked to address the noise and suspected hydrogen sulfide complaints and to describe what has changed on the site. She said that frac operations were started on Friday, December 5, 2015. She did not receive any formal complaints on the noise. However, she did receive a complaint on the suspected hydrogen sulfide. However, she said that the equipment has monitors and if there were any hydrogen sulfide on-site, it would have been detected and alarms would have sounded.

Mr. Gniadek, 20 Cardox Road, said that last December he reported an incident of asphyxiation. At that time, he said the monitors did not show any air quality reading alerts, nor did alarms sound. He said that, now, his house is vibrating during these fracking operations.

Mr. Makel asked Ms. Paluda to lodge a formal complaint in regard to the noise now that she is receiving the report. The solicitor also asked for data from the monitors in regard to the suspected hydrogen sulfide and the noise. Mr. Baumgardner also asked for water test results from the water impoundment. Mr. DeiCas, the Township engineer, was asked to supply the solicitor and Board with some names of independent air quality firms which could be contacted to do an independent study. Mr. DeiCas said that he could provide the solicitor with the name of two labs. Mr. Makel said he will send copies by email to Mickey Gniadek and Gary Baumgardner, and said that he expects to get back to them in a few days. Mr. Makel asked Stephanie Paluda to supply by Friday the test results and readings from the site.

Mr. Baumgardner wanted to know why the sound and drilling is worse at night. Also, he said that the vibration is only felt at night. Mr. Baumgardner said the reason that there is no other complaints other than from himself and Mr. Gniadek, is because the other neighbors signed an agreement with EQT accepting \$50,000 by which, he said, that they signed away their right to complain or to sue for any damages experienced later. He said that he notices that the

neighbors on the street have their lights on late at night / early morning during the same periods of time the people in his home are being disturbed.

den | Mr. Baumgardner wanted to know whether fracking was going to be occurring on Christmas day because his grandchild's doctor advised the family that his grandchild should not be at his home during fracking. He said that this will affect his holiday. Ms. Paluda said that it was a 24 hour operation and that the intention was to drill during the holiday.

Linda Evans-Boren addressed issues surrounding the appointment of Ed Frye to the Board at the last meeting. Also, Ms. Evans-Boren inquired of Mr. Parish as to why he voted "No" to the appointment of Mr. Frye who she described as a very qualified resident of the Township, long time coach, paid EMT, Elrama and Finleyville-Volunteer Fire Department life member and member of Jefferson Hills Ambulance, and navy veteran who holds a Masters in Education and supervised/managed over 100 employees. The solicitor advised Mr. Parish that there was no legal reason to explain his vote, and he declined to comment.

Mr. LaTorre, 7 Boyka Drive, said that he is angry that the noise and dust complaints made about Tomko, indicating violations, are not being addressed or enforced. He also complained that the violation of the conditional approval given by Motion of the Board dependent on Tomko limiting work on Sunday was not being enforced. He said that when the DEP was in his house on Friday he was told that they should not have to put up with the issues they are experiencing and that it is up to the Township to enforce its Ordinances. Mr. Makel said the Board has been working with the residents and with Mr. LaTorre and Mr. Breinig and has gone as far as to go to court to enforce its Ordinances. There was discussion about the current work being done at this site having been authorized by the DEP and whether that limited the Township in any way.

Mr. LaTorre said that he is hearing trucks at Tomko as early as 5:00 a.m., and on Saturday night, there were two quads going through that area at night and he is dumping stone over the hill which leads him to believe safety concerns are not really the issue driving the work being done at Tomko. The solicitor agreed to meet with Mr. LaTorre and Mr. Breinig at 9:00 a.m. on Wednesday. After the meeting on Wednesday at 9:00 a.m., they will talk to DEP legal counsel.

Mr. LaTorre also complained that it was Hal Breinig who got a work order to get the trees leaning on lines across from Giant Eagle removed from the lines. Now they are on the bank, and he asked the Board to get the downed trees across from Giant Eagle removed. Mr. Banahasky will call Penn Dot about removal of the trees.

Pete Guick from Tuscany Estates wanted a status update and wanted to know when the trucks at Tuscany Estates can be removed. Mr. Makel said that after the appropriate notice is given to Mr. Danielson, the trucks can be removed. Ms. Taylor was asked to check with Municipal Consulting Services to see whether the developer had been notified. If not, the solicitor will send out notifications next week.

It was determined that the Township currently has six jersey barriers that could be placed on the dangerous unfinished road at Tuscany Estates; however, the road foreman indicated that the jersey barriers are too heavy to be moved by the equipment at the Township. The solicitor

said that, before Christmas, the barriers will be placed. Mr. Makel will talk to the road foreman on Wednesday in regard to the issues with moving the barriers. Pete Guick asked to be notified, and was assured he would be, if the Township receives an application for a bond or notice of any work to be done by Earl Danielson.

Departmental Reports

Police Report. The officer read statistics for the 55 shifts of work performed in the Township as of the last monthly report. Mr. Breinig asked about the theft of quads which the officer said was being investigated.

Road Report: Mr. Banahasky said he was reprimanded and wanted to discuss publicly a letter he received from the Board. He was asked to wait until Executive Session. Since Mr. Banahasky would not wait until the end of the meeting, it was decided to go to Executive Session early.

Motion to go to Executive Session at 8:20 p.m. for issues of personnel.

Motion by Charles Trax, Second by Steve Parish

Roll call vote: Parish-yes, Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

The Board returned from Executive Session at 8:35 p.m. The solicitor said that they discussed personnel.

Motion to approve general fund bills in the sum of \$41,466.76 as of December 8, 2014, as presented by the Treasurer, subject to being true and correct.

Motion by Charles Trax, Second by Paul Chasko

Roll call vote: Parish-yes, abstaining from anything pertaining to Finleyville Airport, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Mr. DeiCas said that he will advertise for bids for the garage interior project. However, he noted that Mr. Martik could bring his price down to the original \$25,000 estimate should the concrete floor be kept and cabinetry be limited to \$1500.

Motion to advertise bids for the garage addition interior with bids to be opened at 3:00 p.m. on January 9, 2015 for award on January 12, 2015.

Motion by Steve Parish, Second by Edward Frye

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Mr. DeiCas received a quote from Morgan Excavating for repair of the Corace slide area. For the contractor to take the dirt to the Nike Site, the price would be about \$14,750. To haul the dirt all the way out to Bentleyville would increase the price to over \$20,000. He said that the hauling adds significantly to the price, and, by his estimates of \$600-\$650 an hour, the increase was justified. Mr. Parish mentioned that the owner of a residence across the road, Mrs. Pardini, said that she would accept the dirt. She will be contacted. Mr. DeiCas will ask the contractor to rework the price based on the fact that the earth may only need to be relocated across the street.

Motion to approve the proposal of Morgan Excavating for the drainage work on McChain Road for repair of the Corace-Grace slide currently in the sum of \$14,750 conditioned on the recommendation of the Township engineer for a change order which will reduce the repair cost.

Motion by Steve Parish, Second by Larry Spahr

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Motion to advertise the Ordinance supplied by Washington County Sewage Council, subject to approval by Dennis Makel, Township counsel.

Motion by Paul Chasko, Second by Steve Parish

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Motion to approve Change Order No. 1 in the sum of \$5,411.52 and Final Payment of \$98,151.52 to Gregori Construction for the Coal Bluff Slide Repair Project.

Motion by Steve Parish, Second by Charles Trax

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

As a result of break-ins and theft at the now closed Mitchell Power Plant, there was a request by First Energy that one police patrol be done per shift of the Mitchell Power Plant parking lot. Mr. Spahr explained that First Energy agreed to pay Southwest Regional Police for the patrol service. Since the tour of the parking lot will average ten to fifteen minutes of Union Township officer time, the Township will be reimbursed, with the suggestion that those minutes, over a monthly period, would equate to one eight-hour shift. Therefore, SWRPD will provide one shift per month to Union Township. Knowing that we have issues with speeding, the suggestion by SWRPD is that, on a monthly basis, at no charge to the Township, an additional officer could be scheduled, above what is scheduled per the Police Services Agreement, to run a speeding detail for an 8-hour shift.

Motion to accept the proposal by SWRPD as submitted by Chief Hartmann.

Motion by Edward Frye, Second by Steve Parish

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

The Noise Ordinance that is pending revisions by the solicitor was discussed in terms of the decibel level and noise levels that would be defensible in court that would also handle the resident complaints. Mr. Makel said that he would make the level consistent with the Zoning Ordinance and Oil and Gas Ordinance. Hours of operation were also discussed.

Motion to advertise the Noise Ordinance for adoption subject to final revision by the solicitor with a decibel rating to bring it consistent with other ordinances.

Motion by Steve Parish, Second by Edward Frye

Roll call vote: Parish-yes, Spahr-yes, Trax-abstain, Chasko-yes, Frye-yes. Motion carried.

Per the Motion of last meeting, in terms of the liability insurance, the Treasurer said that a modification of the Motion may be required if they choose a higher level of coverage than what was covered in the motion last session of \$1600 with a \$5000 deductible for \$500,000 of

Board Approved: December 22, 2014 with minor revision as noted

coverage for the cyber security. The Board decided that \$500,000 of coverage was acceptable for the Township's degree of exposure.

Per the Treasurer, \$66,400 has to be spent of the Community Block Development Grant funds per the terms of that funding. The treasurer indicated that the funds could not be used to pay legal fees. Mr. Makel said that if demolitions are to be scheduled, the title of each property would have to be checked and the owner notified. Municipal Consulting Services is working on a list of sub-standard properties to be demolished. The Treasurer is not sure if any funding could be used to demo our own Nike Site properties, but will look into it.

Motion to communicate the Board's decision to use the CBDG funds in the sum of \$66,400 for Township demolition projects for which these monies can be lawfully used.

Motion by Paul Chasko, Second by Edward Frye

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Motion to approve the two-year back-up generator maintenance contract with Penn Power Systems for \$1300 annually for two years.

Motion by Steve Parish, Second by Paul Chasko

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Motion to approve re-investment of the Certificate of Deposit in the amount of \$150,000 at 0.55%

Motion by Steve Parish, Second by Paul Chasko

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Motion to advertise the Reorganization Meeting of the Board of Supervisors on January 5, 2015, and the Reorganization Meeting of the Board of Auditors on January 6, 2015.

Motion by Steve Parish, Second by Edward Frye

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Motion to accept the resignation of Edward Frye, Sr., from the Vacancy Board.

Motion by Paul Chasko, Second by Steve Parish

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-abstain. Motion carried.

Motion to appoint Larry Speer to the Vacancy Board until the Reorganization Meeting on January 5, 2015.

Motion by Charles Trax, Second by Steve Parish

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Mr. Spahr said that Mr. Speer will need to complete a State Ethics Form and that he will need to be notified by letter that he has been appointed since he is not in attendance.

Anyone who wants to go to the Penn Dot Winter Meeting was advised to attend. The meeting will be Wednesday December 10, at 9:00 a.m.

Mr. Spahr said that he and Mr. Makel discussed the situation surrounding the clerical workers being provided with health insurance coverage. From a legal standpoint, the Supervisors are

Board Approved: December 22, 2014 with minor revision as noted

responsible for how coverage is provided and that they are required to not discriminate and must at least offer the option of insurance coverage to the clerical workers if it is being provided to other staff. The solicitor mentioned that he is currently working on a legal case involving the secretary not being offered health insurance although the road crew workers do have health insurance. Mr. Spahr advised those present not to take into account empty remarks that he has heard made on this subject.

Motion to adjourn at 9:37 p.m.

Motion by Steve Parish, Second by Paul Chasko

Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.


Debra A. Nigon, Secretary