

Union Township Board of Supervisors  
Regular Board Meeting  
December 22, 2014

The Board of Supervisors Meeting was called to order by Chairperson Larry Spahr at 7:13 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, 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.

Mr. Spahr said that if recording a public meeting, and the recorder is not conspicuous, the operator/owner of the recorder must stand up and inform the Board and public that a meeting is being recorded.

During the meeting, there were explanations about an exchange between some of the Board and Mrs. Spahr and Mrs. Parish which resulted in the taping issue being raised and reclarified.

Public Comment

Mr. LaTorre, 7 Boyka Drive, and Hal Breinig, 44 Finley Avenue, expressed anger and frustration regarding issues continuing at Tomko and the relationship they believed was due to a lack of code enforcements visits, monitoring, and or citations being sent to the site. Also, they said that they had been in a vehicle with the solicitor last Wednesday and drove past areas in the car where they continue to see issues. They both made comments regarding the Gastonville Trailer Park abandoned trailers and full dumpster, continuing noise and dust issues at Tomko, the re-building of the Hoey home on Finleyville-Elrama Road, and the completion of work at Tuscany Estates prior to bond expiration, and issues with a home near the intersection of Brownsville Road and McChain Road.

The BCO and Code Enforcement Officer said that they have not been going to the Tomko site to take measurements because Mr. Breinig and Mr. LaTorre have been reporting their complaints to the solicitor and enforcement is being handled through the injunction. The solicitor said he is filing Preliminary Objections which should be filed next week.

Mr. Grieb and Mr. Ivery said that they are not ignoring these other complaints but that there is a legal and correct way which they must follow. In regard to the Gastonville trailer park, Mr. Grieb explained that the Township cannot simply declare a trailer a hazard and remove it. He explained a process involving notifying the owner of the lot and the trailer, finding out whether taxes are owed and, if so, requesting the County to release the property prior to any demolition, which takes time. Mr. Spahr informed the public that much legal groundwork must first be laid in regard to this issue. Due to an expressed concern that the situation would repeat, the zoning and code enforcement officers added that many trailers were grandfathered in because they were on their lots before there was an Ordinance in place. However, any new trailer or tenants would have to meet Ordinance requirements which are more restrictive.

In regard to Tomko, Mr. Ivery said that he will take a decibel reading at Tomko tomorrow. He will meet Mr. Breinig at his home on 44 Finley Road at 9:00 a.m.

In regard to Mr. Hoey's property, Mr. Ivery said that the opinion of others as to whether it makes sense or not for him to re-build does not matter as the property belongs to Mr. Hoey and, as long as he meets Uniform Construction Code, the owner can re-build, which is his right as a property owner. As for the cracks in the foundation and other comments which have been raised in prior meetings, as BCO, he is overseeing the process in regard to the appropriate permits being issued and inspections taking place.

There were comments made about the lack of development in Union Township. Mr. Spahr said that having the proper infrastructure is essential to that taking place. He added that the most promising infrastructure Union Township was hoping for in the future is that Route 43 and the southern beltway would at some point connect. He also expressed his dissatisfaction that, although a corridor was designed through Peters Township to facilitate that connection, a residential development was allowed to grow into that corridor.

Mr. Grieb said that Earl Danielson, the developer of Tuscany Estates, was cited in the past for seeding and grading and those citations led them to the magistrate. Mr. Grieb questioned the solicitor about the terms of the legal case against the developer and whether the solicitor would be addressing vehicles and garbage in his suit as he was under the impression that removal of the vehicles would all be handled under the injunction. Per Southwestern Police Department, the owner of the vehicles was confirmed to be Earl Danielson. Mr. Grieb said that there have been comments that Earl Danielson has been seen at the County offices. He recently made an inquiry and was informed by an individual at the County that the last time Mr. Danielson was at the County office was in December 2012 for Phase 8 where they reviewed layouts of lots. The County has not had discussions with him since.

Mr. Spahr asked Municipal Consulting Services to keep a chronology and to ensure the Board is informed regarding what is being done with these issues.

Georgeanne Baumgardner, Cardox Road, read a statement during which she thanked EQT for agreeing to stop fracking on Christmas Day, thanked others who signed an on-line petition supporting them in that matter, and recounted issues at her home involving residents not being able to sleep, clouds of thick white smoke, and a bad smell. She said that she gets many headaches, her throat is sore, and she worries over any unknown health repercussions. She requested the help of the community and the Board.

Mr. Spahr said he read all emails they've sent this weekend relative to the issues surrounding the fracking at the well site, their complaints on the planned fracking Christmas Eve and Christmas Day which was stopped by EQT, and he had also read information on hydrogen sulfide and the connection with fracking. There was some discussion on whether or not EQT requested to place air monitoring devices on the Baumgardner property. Mr. Baumgardner further said that he does not know whether hydrogen sulfide is causing the smell but likened the odor to a burned out match.

Mr. Baumgardner also said he believes that EQT alters their operation to get acceptable sound levels when they perform a sound study and scaled back operations as well when there was media attention at the site. Other residents also made comments indicating that they could hear the sound from much further away although it does not wake them. A resident, residing at 22 Parkvue, said that, between 1:00 am and 6:00 am, she can hear the noise from the site inside her home and does not hear the noise during the day and has heard noise from the site as late, or as early, as 4:30 a.m. Also, an individual was in attendance from Stolz Road in Bethel Park who said that she could hear sound from the site at 4.3 miles away. The residents requested that any independent study be unannounced.

Mr. Makel asked the Board whether they would like to authorize him to get sound testing and air testing as a basis to go to court.

**Motion** to authorize the solicitor to seek proposals for purposes of air and sound testing on a random basis both a.m. and p.m.

Motion by Ed Frye, Second by Paul Chasko

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

Per Mr. Spahr, according to what he read, hydrogen sulfide seems odorless in large concentrations and can only be smelled in small concentrations. Mr. LaTorre said that at 4:00 in the morning he went up Cardox Road and saw the cloud and smelled the rotten egg smell he has heard described in the meetings.

Ms. Baumgardner asked for any air quality test the Township might authorize to also include a test for benzene and tests for other chemicals as well as the hydrogen sulfide. She also asked that the Board not contract with the same contractor who had been used by EQT in the past for the ambient sound study.

A member of the public asked about whether the Township had received the sound, air, and water data requested from EQT at the previous meeting. Mr. Spahr indicated that the Township did receive these numbers. However, he noted that the Board does not have the expertise to interpret this data and needs interpretation from qualified engineering professionals.

Mr. Baumgardner was permitted to speak before the Board and reiterated complaints of his house rocking due to vibration, black and white plumes of smoke, chlorine smell, sulfur smell, headaches, sore throats, and sleep deprivation. Mr. Baumgardner described to the Board various incidents he and his family had experienced involving very high noise and poor air quality levels which he had documented. He stated the individual reading levels he recorded during his descriptions to the Board.

Mr. Baumgardner also complained that the site is quiet in the day and noisy at night. He said that he contacted the Southwest Regional office of the DEP and was told that the DEP is only allowed to monitor from 8:00 a.m. to 5:00 p.m. and cannot go out at night. He was also instructed by the DEP to contact the Governor's Office.

Mr. Baumgardner also complained about what he believed to be the unresponsiveness of his complaints to the Township because he began lodging complaints on Friday 12/5/14 and, when questioned by a reporter on Monday 12/8/14, a representative of EQT said they had received no formal complaints of elevated noise levels on Cardox Road. Mr. Ivery and Mr. Grieb said that, since December 5, 6, and 7, two formal complaints were filed but that they must file them formally by certified and regular mail. Mr. Ivery also said that Mr. Baumgardner has been asked to simplify his lengthy email communications and to speak directly to them and not the others copied at the same time.

Mr. Baumgardner also said that he did not receive the water test results. Since the Right-to-Know officer confirmed that they were sent, Mr. Baumgardner will check his junk mail to see if perhaps they fell into his junk mail box or whether somehow he had missed seeing the emailed results in his inbox. He will be sent another email and paper copies if needed.

There was some discussion about the ordinance requirements and decibel threshold levels on noise relative to decisions on prior sound studies.

Mr. Grieb explained that there is no separate Noise Ordinance, but that, in general, noise issues are addressed in certain sections of the Zoning Ordinance and that oil and gas extraction noise is addressed in the Oil and Gas Ordinance in certain sections. Mr. Grieb said, what the Oil and Gas Ordinance does require is that, prior to drilling take place, an ambient sound study must be performed and an ambient level obtained. This ambient level is referred to in the Ordinance and certain activities are allowed, per the Ordinance, to be a certain number of decibels above ambient.

Mr. Grieb went through the history, further explaining that an ambient sound study, as required by the Ordinance, was done by EQT's third party company with an ambient level being determined to be 49.5 decibels for the Trax well site. He reminded Mr. Baumgardner and other attendees that six monitoring sites were averaged together to determine the ambient, and these six sites included one which was placed on Cardox Road near Route 88 by EQT's third party contractor. He said that, although the Township tried to establish a 40 decibel ambient level by requesting this one monitoring location be thrown out of the sound study average, this effort was legally challenged by EQT; therefore the 49.5 decibel level stood, which he described as close enough to standard. Mr. Grieb said, per the Oil and Gas Ordinance, during fracking at Trax Farms, EQT is allowed to be 20 decibels above ambient, plus allowable spikes according to Ordinance language.

Joellen Meek, 124 Viareggio Way, in a discussion on Tuscany Estates issues asked for a status of the Township's lawsuit against Tuscany Estates developer, Earl Danielson, the status on the lack of guard rail on Grossetto Drive and the status of determining the ownership of the vehicles.

Mr. Makel said he will be presenting next week an Injunction for Failure to Complete Process. Mr. Banahasky, Road Foreman, will put four or five truck loads of earth at the end of Grossetto Drive as he thought this was the best solution. Officer Schwartz confirmed that the vehicle owners' name(s) was obtained and turned over to Municipal Consulting Services. Mr. Makel

will call Harold Ivery and Peter Grieb tomorrow in regard to the handling the vehicles as part of the injunction.

Mr. Makel said that a copy of the complaint which is to be presented was sent to Tuscan Estates. Pete Guido confirmed that everything they had discussed was in the complaint. He also said that the Board Room is scheduled for their election but that he doesn't think the room is big enough. Other suggestions were that they contact Finleyville Fire Hall or the Ringgold Middle School. Also, the Tuscan home owners wanted to know whose property were the garbage bags in the alley off Tuscan Estates Drive. Mr. Ivery and Mr. Grieb believe that the owner might be Maronda Homes and will contact them and presume they will probably remove them.

Mr. Snee asked for an update for the work which was to be done on Patterson Road by Tomko. Mr. Spahr communicated that, last he heard, Mr. DeiCas spoke with his project engineer and the business will do the work.

Mickey Gniadek, 20 Cardox Road, said that residents are still having issues on Cardox Road. He reiterated his experience on December 7, 2013, regarding an episode asphyxiation in the driveway of his home which he had reported at an earlier meeting. Also, he made reference to the agreement EQT presented to residents of Cardox Road and what he believed the relationship was to the non-attendance of other residents at meetings and their lack of complaints. He said that he will provide a copy of the agreement to aid in understanding this situation. He also made reference to an earlier experience he had in his working career related to a water contamination issue.

Mr. Makel requested from Mr. Gniadek a concise description, date and time, and list of what happened that day in his driveway when he experienced the described asphyxiation.

Mr. Parish made a complaint regarding tri-axles being seen on Airport Road on the 10<sup>th</sup> of December and also on Thursday and Friday, December 11 and 12. He said that on Friday, in particular, multiple tri-axles were seen going up Airport Road loaded. Ms. Mary Parish added that, on a Thursday two-weeks ago, she was behind one of these trucks which was coming from Route 88.

Municipal Consulting Services said that Finleyville Airport had turned in a grading permit application for a small taxi-way which did not appear large enough of a project to require the grading permit; however, the work was documented and a permit was issued. It was described that the dirt from the excavation was moved from one side to the other of and did not go off the property. It was noted by Mr. Chasko that, when he was at Finleyville Airport on another matter, he noticed the Airport had black topped a section about six foot wide, 2 feet long, three inches deep. Mr. Ivery said that MCS went multiple times after Mr. Parish requested they check it out and they never saw the trucks. Mr. Ivery said SWRPD police were also requested to look for trucks and did not report seeing any. Mr. Ivery and Mr. Grieb said there appeared to be no damage to the road.

**Motion** to approve Payroll #25 dated December 5, 2014, in the sum of \$8,172.43 as presented by the Treasurer, subject to being true and correct.

Motion by Steve Parish, Second by Ed Frye

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

**Motion** to approve Payroll #26 dated December 19, 2014, in the sum of \$8,238.50 as presented by the Treasurer, subject to being true and correct.

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 the Minutes of the November 24, 2014, Workshop as presented by the Secretary, subject to being true and correct.

Motion by Steve Parish, Second by Paul Chasko

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

Mr. Parish asked for "fracing" to be changed to "fracking" in the Minutes of December 8, 2014.

**Motion** to approve the Minutes of the December 8, 2014, Regular Board Meeting as presented by the Secretary, subject to being true and correct, with amendment.

Motion by Steve Parish, Second by Ed Frye

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

**Motion** to approve general fund bills in the sum of \$145,499.42, as of December 8, 2014, as presented by the Treasurer, subject to being true and correct.

Motion by Paul Chasko, Second by Steve Parish

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

The Treasurer explained that the pension plan for PMRS continues to be overfunded. There is still \$4000 overage on our account due to the resignation of Mr. Ed Frye. As agreed prior, the MMOs have been being paid with this overage caused by the Road Superintendent's resignation. She further explained that the reason why Union Township did not get state aid for the PMRS pension is because we really did not have a contribution this year as it is still being taken out by PMRS from the overage on our account.

Since Mr. DeiCas was not in attendance, the garage interior bid was not discussed. The Treasurer said there was no bid document supplied to provide to the Board.

The Treasurer expressed her concern that the Township could be fined by DEP as a result of the broken underground storage tank detector monitor wire which was damaged during the garage addition construction. She said that her concern was that the original contractor perhaps may not bid or may not be awarded the interior project and may not be back on-site to repair the broken wire. The Treasurer requested to call the company which installed the storage tank to have the wire repaired to comply with DEP regulations.

**Motion** to call manufacturer for repair of detector wire for the underground storage tank.

Motion by Paul Chasko, Second by Steve Parish

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

Paul Chasko explained that there was confusion about whether the bidders for the Airport Zoning District Tree Hazard Removal Project used prevailing wage rates or not in the bids provided due to the proximity of the bid threshold limit and their understanding regarding the requirement. Mr. Chasko said that bids were opened on Friday. However, in the advertisement it said that the Township reserves the right to reject any and all bids. Mr. Chasko recommended the Township re-bid. In addition to the confusion over prevailing wage requirements another issue he presented is that, at the pre-bid conference, the bidders offered various suggestions on how to cut down the Township's cost for debris removal and he would like to incorporate those suggestions so that the most efficient and least expensive method of debris removal can be chosen by the contractors. He said that three of the six bids which were opened came in under the \$25,000 limit and those bids should be able to come in that way again.

**Motion** to reject any and all bids based on inconsistencies in wage rates.

Motion by Paul Chasko, Second by Ed Frye

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

**Motion** to advertise new specifications with modified procedures for disposal of debris with the project being a non-prevailing wage job with a bid opening on 23<sup>rd</sup> of January, 2015, at 4:00 p.m. with the project to possibly be awarded at the Regular Board Meeting on Monday, January 26 at 7:00 p.m.

Motion by Paul Chasko, Second by Ed Frye

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

Mr. Parish said that it reads in the Minute Book of August 6, 2008, on page 96, that costs would be borne by the airport.

Mr. Chasko said that he had given Ms. Nigon letters for each airport property owner updating them on what would be taking place on their property. He would like to send these out soon.

**Motion** to send out letters to all property owners contiguous with the airport with identified tree hazards in regard to disposal of their trees.

Motion by Paul Chasko, Second by Charles Trax

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

**Motion** to authorize the Road Foreman to get three quotes, one each from from Green Acres, Penn Line and Interstate, for installing guard rail along McChain Road.

Motion by Steve Parish, Second by Ed Frye

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

Per inquiry by the Board, the Treasurer broke down the \$64,001.18 paid to Morgan Excavating, with \$38,000 being the original contracted amount, plus two change orders which were approved by the Board because the work was less expensive while the contractor was in the area. The Treasurer said that, although Mr. DeiCas agreed to inquire and arrange for the dirt to be trucked to a closer location to reduce the price, he could not get permission to take it

to the locations which were proposed to him, so the dirt had to be trucked to the Nike Site as quoted. The Treasurer said that the only add-on was a significant quantity of rip-rap which was described to be needed to keep the stream bank from eroding. In response to public comment it was agreed that, although Mr. Corace offered to do this job for \$1 at one time, there was no indication that the slide was actually caused by the fill on Mr. Corace's property.

**Motion** to approve payment in the amount of \$64,001.18 to Morgan Excavating, LLC.  
Motion by Steve Parish, Second by Larry Spahr  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Ms. Bernie Speer made reference to the solicitor taking Mr. Breinig and Mr. LaTorre around the Township in his vehicle and asked whether there were any liability concerns in a situation like this if a resident were to get hurt. She was assured by the solicitor that there were none.

**Motion** to approve transfer from Capital Reserve Slide to the General Fund in the sum of \$98,151.52 in support of Police Services.  
Motion by Steve Parish, Second by Ed Frye  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

**Motion** to approve transfer from impact fee account to the general fund in the sum of \$112,000 per the 2015 Budget.  
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 table award of the cleaning contract.  
Motion by Ed Frye, Second by Paul Chasko  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

**Motion** to adopt the PA Townships Health Insurance Cooperative Trust Ordinance, No. 05-2014.  
Motion by Paul Chasko, Second by Charles Trax  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

**Motion** to adopt the Pennsylvania Municipalities Pension Trust Ordinance, No. 06-2014.  
Motion by Ed Frye, Second by Paul Chasko  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

**Motion** to adopt the PSATS Unemployment Compensation Group Trust Ordinance, No. 07-2014.  
Motion by Steve Parish, Second by Paul Chasko  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

John Adkins, a scout for a television company requested to be on the agenda regarding a site on Garvin Road which seems to meet the requirements for a project which he would like to present as a site choice to his director who will be arriving in town before the first of the year. The filming would be for a dramatic television series which he said is backed by a large Hollywood studio, and would take place over six months, requiring multiple re-visits to that

area. Also, he said that there have been preliminary conversations with property owners below the intersection of Little Mingo Road, on the lower section of Garvin Road, where there is a ravine. The set would be built on private property which would be viewable from the road and the set pieces would be there two to three days a week, sometimes for overnight shoots. Prior to his suggestion of that location as a filming site to the director, he said he had to ascertain from the Board whether, with the blessing of the homeowners, it was possible to detour that road with a road closure, two to three days a week, over six months, when they are filming in that area. If workable detours exist, he said police coverage would be needed to detour the road which would be paid by those financing the series. Also, he said that, if the series would get picked up, they may want or need to come back year after year for the same six months. It was noted by Mr. Adkins that along what was identified as Mingo Falls, a great number of tires have been dumped, and, if this site is chosen, he could see those tires being cleaned out. There is a budget for location fees and any public works would be reimbursed as well. The Board informed the scout that a well site could be near that location on the Nottingham Township side, further up, at sometime in the future but, since the Board has no way of knowing when or whether it will definitely occur, that they saw no obstacles towards detouring the road should the site be selected.

**Motion** to adopt the 2015 budget with no tax increase.

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 set millage rate for 2015 at 12 mils.

Motion by Steve Parish, Second by Charles Trax

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

**Motion** to Re-enact Ordinance #1-2007, ½% Realty Tax.

Motion by Paul Chasko, Second by Ed Frye

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

**Motion** to Re-enact the Mechanical and Electronic Devices Tax at \$75 per device.

Motion by Ed Frye, Second by Paul Chasko

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

**Motion** to go to Executive Session at 10:15p.m. to discuss litigation.

Motion by Charles Trax, Second by Ed Frye

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

The Board returned from Executive Session at 11:07 p.m.

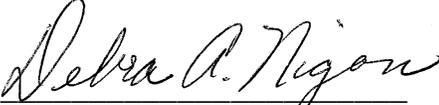
The solicitor said that the Board discussed items involving personnel and possible litigation involving EQT.

*Board Approved: January 26, 2014 with corrected date in footer*

**Motion** to adjourn at 11:08 p.m.

Motion by Steve Parish, Second by Charles Trax

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

  
Debra A. Nigon, Secretary