

Union Township Board of Supervisors  
Regular Board Meeting  
February 23, 2015

The Board of Supervisors Meeting was called to order by Chairperson Larry Spahr at 7:01 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, Ed Frye. Also in attendance, Dennis Makel–Solicitor, Mr. Carl DeiCas–Township Engineer, Judy Taylor–Treasurer, Debra Nigon–Secretary, and Harold Ivery–Building Code Official. Peter Grieb–Code Enforcement Officer, did not attend.

Public Comment

Pete Guido, 125 Viareggio Way, asked about rules on retention ponds as to who is responsible for maintaining them to which Mr. Spahr responded that the responsibility lies with the developer under the purview of the DEP. Mr. Guido also said that vehicles are being parked at the end of streets in Tuscany Estates by hunters who are hunting in the vacant portion of the property. He was informed that the wooded area is privately owned by Earl Danielson and that any hunters would have had to ask for permission to hunt on his property. Also, per state game law, it is required that a hunter has to be 150 yards from any buildings that contain people or animals and, for archery hunting, the required distance is 50 yards. Mr. Makel said that Townships cannot go above or beyond what is allowed per state game laws.

Barbara Stover, 135 Viareggio Way, made inquiry about the agreement made at the meeting with Mr. Danielson in relationship to the March 3 deadline for the suit and the June 28 bond expiration. Mr. Makel said that, in their meeting, the developer was asked to do something about the hazardous condition of Grossetto Road and complete other aspects of the development as had been determined by the Township engineer in preparation for the suit. Mr. Makel said that the developer has until March 3<sup>rd</sup> on these items.

Ms. Stover said that, although the weather has not been good and everyone recognizes that fact, it does seem like there are some things the developer could be starting on, such as removal of vehicles, equipment, and debris, but that residents have not seen any evidence of this occurring. It was noted that a dumpster was recently placed out on Viareggio Way where there are bricks and other debris which has been mentioned at past meetings. Since Mr. Grieb was not present at today's meeting, there was no update as to whether Maronda homes agreed to remove the debris or whether the dumpster belongs to them. Mr. Makel said that he would email Mr. Danielson in regard to the work involving removal of the vehicles and equipment and give him 30 days notice. Ms. Stover believes Mr. Danielson was already given the 30 days notice for removal of the items mentioned which would be expiring soon; however no one at the meeting was able to verify that timeline for her. Mr. Guido asked Mr. Makel for a copy of any email sent to Mr. Danielson by Mr. Makel.

There was a concern expressed by residents that the developer will only do a few of the items on the list of work and that this effort would stop. There was also concern that by performing

some work now and by continuing to keep the equipment on the site, the developer might be maintaining some type of legal loop hole or advantage by which he could avoid completion of the development. Mr. Makel said Earl Danielson had said in the meeting that the bankruptcy by Maronda affected him financially and that he is currently looking for another developer. Also, Mr. Makel said he cannot force someone to complete a development if they lack the financial means to do so. He also said, if the work on the list is not completed, Mr. Danielson will have to file a response to his pleadings which he has not yet done. Mr. Ivery said that he believes that Mr. Danielson completed Phase 6 of the development which ended on Grossetto Road and that Mr. Danielson applied for Phase 7 but either did not begin or just barely started on that portion.

Hal Breinig, 44 Finley Avenue, commented in regard to Tomko and the repeated complaints he has made in regard to dust and noise relative to a recent meeting to which he was invited that was attended by members of the Board, Township solicitor Chris Furman, Mr. Tomko, and his solicitor, Mr. Wissinger. Mr. Breinig expressed anger and frustration with what he termed as the Board's readiness to make deals with Mr. Tomko as opposed to forcing the business to abide by Township ordinances even though the business has violated ordinances in the past. His concern is that Tomko's intention of completing the current work which involves bringing in a bigger rock crusher will cause additional disruption and hardship to his neighborhood. He asked the Board to protect the health and tranquility of residents of Boyka Plan. Mr. Breinig said he supplied photographs to the solicitor of dust and of a pipe coming off the property.

Frank LaTorre, 7 Boyka Plan, complained about issues involving Tomko relative to a lack of code enforcement, a lack of a required buffer zone, the Board not adopting the dust ordinance proposed by the solicitor, and Mr. Tomko using profanity towards him at the meeting he attended by Tomko, Board members, and counsel. He said he did not believe code enforcement was doing a good job and did not believe the noise, dust and other issues would be tolerated in municipalities such as South Park and others which he listed.

Mr. Ivery was asked to respond in reference to violations by Tomko. Mr. Ivery said that everything that is being done right now on the property has to do with the consent order with the DEP and that the business is not working under a Township permit. In regard to the noise, Mr. Ivery said that he and Mr. Grieb did do a study which involved three visits of about 20 minutes each and that no violations were found. Mr. Ivery said that he and Mr. Grieb conducted the study on their own and that no one had been aware that it was being done. Mr. Ivery also said that Tomko is not in violation of any Township ordinance. He also explained to Mr. LaTorre how the business had been in compliance regarding the buffer zone to satisfy Mr. LaTorre's comments on that matter.

Mary Jo LaTorre, 7 Boyka Plan, said that the activities at Tomko has devalued homes in Boyka Plan. She also read from materials which she brought to the meeting regarding details surrounding a past legal conviction of Mr. Tomko as well as financial numbers which she said spoke to the business owner's financial power and influence. She proposed to the Board a list of reasons as to why Board members might choose to help Mr. Tomko as opposed to the residents of the Boyka Plan and asked if any of the proposed reasons she put forth were influencing the Board's decisions on the code enforcement issues.

Mr. Spahr said that none of the proposed reasons were applicable, and pointed to the Board's recent decision to sign an agreement to allow clandestine sound testing of the site. Mr. Spahr said that he has had multiple conversations over many years with the solicitor and zoning officer in regard to code enforcement violations and issues involving Tomko. However, contrary to what's being said at this meeting, the DEP has communicated that Tomko has been working within the current agreement. Mr. Spahr also said that he discussed the noise with Mr. Tomko who has agreed to do some research, since he does not have any experience with effective construction measures for mitigating noise, into what may be effective, including a sound wall or barrier similar to what EQT had installed at Trax Farms at significant cost. Also, Mr. Spahr said that it was communicated by Mr. Tomko that within the next week, the business will be done using the big hammer and stone crushers will be used instead which will produce a sound that is minimal in comparison. Once that step is complete, Mr. Tomko will start with what the DEP says needs to be done to bring the slope into compliance which will take another three or four months. In the interim, after the rock crushing step, the business intends to apply for a permit to build a building extension.

A resident inquired as to whether the building will be a transportation company and whether there will be tri-axle trucks going in and out of the site. Mr. Makel said that he does not believe a trucking terminal would be a permitted use; however, any application would have to be submitted and reviewed for compliance.

Paul J. Dorsch, Jr., 15 Boyka Plan, said that he has experienced the noise and other issues although he is not often at home. Mr. Dorsch, as a contractor, insisted that Tomko is not a construction site as the noise has been going on for seven years and is not being done per any construction schedule. He asked for clarification from the Zoning Officer as to why the noise levels allowable during construction were being applied. Mr. Ivery said the work which is being done currently under the DEP consent order makes it a construction site for the current time. However, in the past, the location of the business would not have been considered a construction site and, in the past, there were ordinance violations.

Heather Demski, 53 Boyka Plan, said that she moved here three years ago and is a retired veteran who suffers from PTSD. She said that the constant banging has a negative health impact on her life especially due to the PTSD and, generally, there is an expectation when buying a home in a more rural area that there would be some measure of tranquility.

Cody Polfus, Boyka Plan, said he is attending today's meeting to comment on the issues at Tomko, although he and the other neighbors have relied somewhat on the attendance for Mr. Breinig and Mr. LaTorre to communicate the neighborhood's issues. He also said the dust is a real problem for he and his mother, and he has not seen anything being done to correct the problem. He also inquired about the future of the Township and where the Board is going in the future.

Mr. Spahr advised Mr. Polfus that the Township has advertised for members on the Recreation Board and said that the prior group was working on improving the park. Mr. Spahr encouraged the gentleman or any of his friends who are interested in serving on the Parks and Recreation Board to make the Board aware as their participation would be welcomed. Mr. Spahr also commended Frank LaTorre for his service on the Recreation Board and noted that the park is

used for recreation not only by the public but by local school and sports leagues and associations. It also serves as a location for annual picnics and events by local volunteer emergency and veteran groups. Mr. Polfus asked about the status of the Nike Site and was informed that, through the exemplary efforts of Representative Murphy, the Board has been given the deed to the site by the Army which will be an excellent location for a park once grant money is obtained.

In regard to Mr. Polfus' dust complaint, Mr. Makel will send Mr. Kopar of PSI, who is doing the independent sound and air quality testing, the Township's Dust Ordinance for his suggestions and evaluation.

*dan* | Rick ~~Kristen~~Kriston, 4498 Finleyville-Elrama Road, commented about the property at 4490 Finleyville-Elrama Road owned by Mr. Hoey. He is concerned about the vehicles on the property as well as re-construction pertaining to a lack of headers over windows and what he believes is improper construction of roof rafters, in addition to a refrigerator in the yard which does not have the door removed. Mr. Ivery said the owner will be getting the vehicles removed and cleaning the place up. The dumpster has been emptied three times. Also, Mr. Ivery said that the owner is in compliance at this point. He is still framing and has not received a final framing inspection yet; however, Mr. Ivery said that this is a re-build process and there are different requirements for the older portion of the home. According to code, he does not have to put headers in over windows that are only being replaced. Mr. Ivery said that he will certainly mention the refrigerator door when he makes the next site visit and, as a certified building inspector, he will be making sure the property meets uniform construction code.

Mr. Gniadek, 20 Cardox Road, commented that he filed a couple of new complaints relative to EQT drilling and noise and diesel fumes which were experienced at 3:00 in the morning. He said that he had to leave his home for a few hours. He also filled out a right-to-know request for the results of water sampling which is to be done every two weeks. He commented that during the testing by PSI, sound levels were greatly reduced at the site. Mr. Makel assured Mr. Gniadek that he would send the results directly to him so a right-to-know request was not necessary.

Mrs. Baumgardner read a statement pertaining to her honesty in communicating what is being experienced at her home due to the close location of the EQT well site. She emphasized that she would never under any circumstance unjustly call emergency responders for help. She said that her goal in speaking at the Township meetings has been to bring awareness regarding the noise and pollution experienced by those living in close proximity to a well. She stated that the well should never have been placed so close to her property. She also made general suggestions to any Board dealing with this issue, which included: members responding only with what they are willing to do to help and not what they think, making sure tests that are done are random, and not adjusting any ordinance for the oil and gas industry. She asked that municipalities make restrictions and enforce ordinances and make new ones to help people in her situation.

**Motion** to approve the Minutes of the January 26, 2015 Regular Board Meeting as presented by the Secretary/Assistant Treasurer, subject to being true and correct.

Motion by Steve Parish, Second by Chuck Trax

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

**Motion** to approve the Minutes of February 9, 2015, Workshop, as presented by the Treasurer / Assistant 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.

**Motion** to approve the Minutes of the February 9, 2015, Regular Board Meeting as presented by the Treasurer / Assistant 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.

**Motion** to approve Payroll #03 dated January 30, 2015, in the sum of \$8,941.90 as presented by the Treasurer, subject to being true and correct.

Motion by Steve Parish, Second by Chuck Trax

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

**Motion** to approve Payroll #04 dated February 13, 2015, in the sum of \$13,101.78 as presented by the Treasurer, subject to being true and correct.

Motion by Steve Parish, Second by Chuck Trax

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

### Departmental Reports

Zoning and Code Enforcement said that everything on their report has been discussed.

Mr. DeiCas said that, aside from all that has already been discussed, he did bring with him and will leave for the Board's signature the contracts for Swede Construction for the interior of the garage addition. As soon as they are signed, he will schedule a preconstruction meeting.

In regard to water at EQT impoundment pond, Mr. DeiCas said that he requested tests which showed higher than normal chloride and magnesium for potable water. The water is supposed to be coming from PA American; but tested high in dissolved solids which is inconsistent with public water. The only explanation Mr. DeiCas could assume for the chloride was that it might be associated with the HDPE piping used which is non-potable water piping which may be understandable to use seeing that the frac water is not meant for drinking and does not need to meet DEP limits for drinking water. In request for a summary, Mr. DeiCas said that he did not see any organic metals. In regard to evidence of back flush, Mr. DeiCas said no; however, he is not sure of the source for the additional chloride and magnesium.

Mr. DeiCas said that EQT is only testing for dissolved solids, pH, and temperature and that there is no additional information being provided. He said the kind of test you want to see is

one showing all levels of Barium, Chromium, Nickel, Cadmium, and so forth, which was negative.

The individual representing Professional Service Industries was questioned as to whether he was ever hired by EQT to which he responded in the negative. He said that PSI had collected some of the data including noise and dust and could go over those results; however, monitoring is not finished. He said they have heard about dust plumes and would like to test for respirable silica but have not done this yet. They will also test the water impoundment but have not yet performed this testing either.

In regard to the data collected, the representative said that, since they did not hear anything about odors, the PSI plan was to test for air quality and noise. The company stated they worked with Township solicitor, Chris Furman, on testing parameters. PSI was instructed by Mr. Furman that the fracking was due to be over in February and so tests related to fracking and noise needed to be done right away. They proposed to sample over a three day period which involved stationing monitors around the site.

Mrs. Baumgardner commented during PSI's report regarding her concern that EQT slowed down or cut down on certain work because they saw the monitors.

The PSI reps said they were somewhat handcuffed in regard to testing sites for the sound monitors because they wanted to run the motors continuously over a timeframe so that they could obtain a continuous data stream which required access to electricity for the motors to function over that timeframe. The monitors are large and are designed the way that they are for protection outdoors. He also said that because of wind currents and other factors, they try to place them in a triangulating fashion. Since they could not get power at one site, they were going to place a monitor at Trax Farms; but decided to monitor at a home in the vicinity which he identified as one that had green houses nearby.

PSI said that Mrs. Baumgardner called one day and said they were fracking, and that data was collected accordingly and logged for every minute. PSI ended up doing 5-6 days of monitoring, more than initially planned. Mr. Gniadek said that on the Saturday when PSI caught the fracking on the monitor, it was loud, but not as loud as what they have to normally endure but that it is known that EQT cuts down on the work considerably when they see monitors erected.

Mr. Spahr said that the Observer-Reporter called him today asking him what the testing results revealed and that he did not make initial contact with the reporter.

Mr. DeiCas said that, per the data, at one of the monitoring boxes placed at the Baumgardner property, on one of the days data was collected, EQT was above the Ordinance requirements for noise. PSI said they would like to have the data they collected reviewed and hopes to have the reviewed data ready next week. The review is being performed to rule out contamination from wind chimes, etc. The silica results and water results will not be ready next week.

PSI said their data showed that dust was significantly below Ordinance limits.

Mr. Makel said that he would like to issue to EQT a letter stating that initial data shows that there is a noise issue on the Baumgardner property and that a certified test will be forthcoming. He would like to issue the letter tomorrow, but needs a written scientific report.

Mrs. Baumgardner asked if there was a way to measure vibration since the vibration wakes her. The representative from PSI said that he has heard of seismic type tests to measure the vibration but he himself has personally not done any of this type of testing.

**Motion** to approve general fund bills in the sum of \$101,183.16, as of February 23, 2015, as presented by the Treasurer, subject to being true and correct.

Motion by Chuck Trax, Second by Paul Chasko

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

Ms. Taylor said the annual payment for the purchase in a prior year of the tractor and backhoe make up the majority of the general fund bills.

In regard to the Airport Tree Removal Project, Mr. Chasko said that an updated spreadsheet was in the materials the Board had in front of them, and that several individuals still needed to submit the indemnification and easement contracts. Mr. Makel said he will contact Ms. Fincham, Mr. Brizzi and Mr. Young who have not yet turned in completed contracts.

In regard to the Waste Management contract, the Secretary obtained a quote from the sales representative for a one-year extension. The current rate would increase 2% or 28 cents per month. Current billing is \$14.14 monthly and would increase to \$14.42 monthly under the proposal. Since the bill is sent quarterly, the quarterly bill would increase from \$42.42 to \$43.26. Mr. Parish said that, per his review of the contract, the current rate from which the 2% was calculated did not appear to be correct and asked the Treasurer and Secretary to review the math and verify the rate currently being billed. Mr. Spahr directed the Secretary to inquire whether the extension proposed could be locked for another year at the same price for a total of two years.

**Motion** to Adopt Resolution No. 01-2015 for appointment of the individuals selected to the Washington County Tax Collection Committee.

Motion by Steve Parish, Second by Paul Chasko

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

The Treasurer said that there are still residents having issues with the billing by Jordan Tax Service, particularly those residents who have delinquent accounts. In those cases, the residents claim that they keep making payments but their outstanding balance owed seems hardly to be reduced. The Treasurer explained that these residents have come to the Township with their invoices and she has reviewed them with them. In doing that, she has found no documentation on the invoice to account for the distribution of each payment and no way to determine how the resident's payments are being applied and no calculation method by which she could come to the same number as the outstanding balance shown on the invoice. Ms. Taylor will contact Jordan Tax Service for a meeting to discuss issues with the billing and complaints by customers and questions on the formulas used to determine cost.

Dye Testing for Elrama was discussed. It was mentioned that some municipalities allow applicants to contract with their own certified plumber rather than having the Township coordinate the test with the plumber, the owner, and/or realtor. Currently, the Township has a list of authorized master plumbers. If a plumber wants added to the list, he can request to be added. The Board instructed Ms. Taylor to rotate down the list to give every plumber on the list a fair chance if the owner did not indicate a preference.

Mr. Parish said that he talked to Bob Funtal who is a local electrician about the repair of the light fixtures at the municipal building. Mr. DeiCas as well as a contractor who just happened to be in attendance at the meeting, Mr. Dorsch from Boyka Plan, advised the Township to replace the old fixtures with LED light fixtures which was consistent with the information Mr. Parish received from Mr. Funtal. Ms. Taylor noted that we could apply for the First Energy grant funding for the replacement of the fixtures.

The Treasurer also said that a resident, Mr. Dowling, contacted the Township and would like to donate two map cabinets to the Township which are currently located in his barn. He said they were originally purchased from American Bridge. If the Township wants them, we would have to pick them up. The Board authorized the road crew to be sent for the cabinets.

Mr. Spahr mentioned that there was some question about demolition of a home on July 31, 2014 at the Equitrans site on Finleyville-Elrama Road. For the record, it was researched and the proper demolition permit had been applied for and issued for that work.

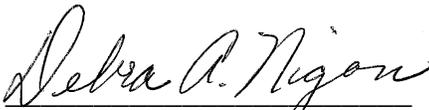
In regard to 5100 College Street, Mr. DeiCas said he would get the drawing for the easement done right away.

**Motion** to go to Executive Session at 9:50 p.m.  
Motion by Chuck Trax, Second by Steve Parish  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

The Board returned from Executive Session at 10:09 p.m.

The solicitor said the Board discussed possible litigation with EQT

**Motion** to adjourn at 10:09 p.m.  
Motion by Steve Parish, Second by Chuck Trax  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

  
Debra A. Nigon, Secretary