

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

The Board of Supervisors Meeting was called to order by Chairperson Larry Spahr at 7:07 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 Ed Frye. Also in attendance, Chris Furman—Solicitor, Mr. Carl DeiCas—Township Engineer, Judy Taylor—Treasurer, Debra Nigon—Secretary, Harold Ivery—Building Code Official, and Peter Grieb—Code Enforcement Officer.

Public Comment

Pete Guido, 125 Tuscany Estates Drive, and Barbara Stover, 135 Viareggio Way, requested a status of the lawsuit against Tuscany Estates developer Earl Danielson. Mr. Furman said that the defendant filed Preliminary Objections which have to be answered by next week and the lawsuit is following the normal track of litigation in that the defendant had twenty days to file objections and now the plaintiff has twenty days to respond. Ms. Stover wanted to know whether these objections wouldn't have been discussed when the extension of time was given during the meeting held by counsel for both parties. Mr. Furman explained that the meeting would have been handled separate from the litigation. Mr. Makel met with Mr. Danielson and Mr. Furman is handling the litigation.

Mr. Guido said that he was supposed to be copied on any emails or correspondence with Quaker Engineering and did not receive any copies

Ms. Stover commented also that the two trucks, propane tanks, and other debris are still on the property. Mr. Spahr explained that the suit has been filed and now litigation will proceed forward. Ms. Stover inquired about the debris owned by Maronda homes described as meters, piping, and a port-a-john which are still on site at the development and need to be removed. Mr. Grieb took a note and will follow-up with Maronda again about these items. Mr. Grieb informed Tuscany Estates residents that the zoning violations against Quaker Engineering are being addressed in the Complaint filed by the solicitor and will now be in a holding pattern as the litigation proceeds.

Seth Lopic, 170 Cinque Terra Place, complained about overdue 2013 taxes he must pay which he was never notified that he owed. Mr. Lopic said he recently received notice of the overdue taxes by the Washington County Tax Claim Office and Portnoff Law Associates who collect delinquent taxes for the school district and municipality respectively. Mr. Lopic said he is a recent resident of Tuscany Estates and the taxes represent 2013 interim taxes. Since he was unaware the he owed the taxes, he now owes handling fees on the school district side that he otherwise would not have had to pay and has lost the opportunity of receiving the discounted tax rate for both the school and municipal taxes. He said this his neighbor has also received notice of delinquent taxes and that he, personally, knows of four or five other residents who said they experienced the same situation in the past but did not make mention of it to anyone.

Chase, the mortgage holder, informed him that it is their policy not to pay interim taxes; however, they never notified him. Mr. Lopic contacted the County and was informed that the County's policy regarding interim taxes is to notify both parties, the homeowner and the party who is to pay taxes. He requested that the tax collector make it policy to send notice to homeowners as well as the party identified as the contact for taxes.

Ms. Bernadette Speer, the real estate tax collector, who was in attendance at the meeting, addressed the issue. The policy has been to send the notice for interim taxes to the party who is supposed to get tax invoices and information. She explained that some mortgage companies have a third party to handle escrow and the notices about interim taxes must not always be getting to the proper party for payment due to differences in their internal policies and procedures. She has had other new residents who have not had an issue with delinquent interim taxes and this is only the second time she has heard of this problem. The case, she said, is unusual in that Union Township has not had a development like Tuscan Estates in the past and she was unaware of the problem and not notified by the mortgage companies or third parties that they would not be paying the interim taxes or notifying the homeowner that they were due. From this time forward, she will begin sending two notifications. Also she noted that the homeowner is not being charged late fees by Portnoff Law Associates.

Since Mr. Lopic has already denied forgiveness of the fees for the school taxes by Washington County Tax Claim Bureau, he was advised by the Board to try to negotiate with Portnoff Law Associates regarding the municipal taxes. The solicitor directed him to an attorney who does aggregate claims.

**Motion** to approve the Minutes of the February 23, 2015, Regular Board Meeting, as presented by the Secretary, subject to being true and correct, with spelling of Mr. Kriston's name corrected.

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 approve the Minutes of the March 9, 2015, Regular Board Meeting as presented by the Secretary, subject to being true and correct with revisions as noted.

Motion by Steve Parish, Second by Charles Trax

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

**Motion** to approve Payroll #05 dated February 27, 2015 in the sum of \$13,252.91 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 Payroll #06 dated March 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 Paul Chasko

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

## Departmental Reports

Municipal Consulting Services said that their items were all in their written report which had been provided to the Board. Mr. Spahr inquired about the Hoey property on Finleyville-Elrama Road. Mr. Ivery responded that, by the next meeting, one vehicle should be registered and the other one should be gone. As for all else, progress is steadily moving along on the home.

Mr. DeiCas reported that he spoke with Swede Construction in regard to the window which needs to be replaced in the original garage building. He was given a price of about \$1,300 to change the window in the road crew portion of the garage.

**Motion** to replace window in maintenance garage by Swede Construction in the sum of \$1,300.

Motion by Steve Parish, Second by Ed Frye

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

Mr. Parish reported that he, the Road Foreman, Road Superintendent, and Township Engineer went to look at the Coal Bluff Road Slide and McChain Road Slide. The guard rail has still not been installed on McChain Road. Also, Mr. Parish said that the McChain Road Slide is not sufficiently repaired and will continue to slide and requires a wall being set three or four feet off the edge of the road. Mr. DeiCas said that the problem was that the Township did not get the 50 foot right-of-way needed for repairing the slide as they would have liked. The owner of the property did not approve the fifty foot easement which the Township said was needed or preferred. Mr. DeiCas suggested taking a look at the area one more time before making a decision. Mr. Trax added that he recently looked at the area, and it has dropped about four feet and has taken two trees out. The solicitor was requested to contact Mr. Corace and ask for a fifty foot right-of-way, which will put the right-of-way right up against his garage; however, if not granted, the property owner could lose this garage.

Mr. Furman did not have a report as all issues were either on the agenda or would need to be addressed in executive session.

**Motion** to approve general fund bills in the sum of \$77,696.11, as of March 23, 2015 as presented by the Treasurer, subject to being true and correct.

Motion by Ed Frye, Second by Paul Chasko

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

Ms. Taylor mentioned that a little less than half of the general fund bill amount was for the purchase of rock salt to replenish the supply.

The Maers Subdivision went before the Board for Approval. It had been identified as the Finleyville Airport Line Shift previously when it was last up for approval. At that time, the Board said that the name had to be changed as the property actually being subdivided was owned by the Maers even though, ultimately, the intention was for the Airport to purchase one of the resulting parcels, a very small corner abutting Airport-owned land. Mr. Ivery supplied to the Board copies of the Recommendation from the Engineer, Planning Commission Minutes, Sewage Planning Module, and the Washington County Planning Commission review letter.

Mr. Parish said that subdivisions were normally marked Lot 1 and 2 or Lot A and B, but in this case the two parcels are not labeled. Mr. Ivery agreed; however, noted that at the last meeting we had only asked for the acreage of the two parcels on the mylar, which they did include. In response to Mr. Frye's question as to why it took so long to come back before the Board, Mr. Ivery said that the Township had been waiting on the revised mylar to be re-submitted.

**Motion** to approve the Maers Subdivision (Line Shift) resulting in two parcels owned by Donald and Barbara Maers, one parcel of 1.014 acres (residual), one parcel of .004 acres being conveyed and added to the property owned by the Finleyville Airport resulting in the Airport's final acreage of 65.772 acres, subject to all fees being paid, for recording purposes only.

Motion by Charles Trax, Second by Paul Chasko

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

Mr. Makel contacted Mr. Brizzi and who did not agree to submit the proper paperwork. The total for the overall current project would be \$13,900, with the Brizzi property trees amounting to \$800 of that sum. The Township can move ahead, excluding the removal of his trees, which would reduce the contract by \$800. Relative to moving the project ahead, Mr. Chasko did not see a problem with beginning the work on all the other parcels and leaving Mr. Brizzi's property out of the project, at least for now. Also, he said that the Aviation Division usually arrives in March to complete their survey and he would like to ask them to put that off until we get the cutting out of the way.

Mr. Makel supplied a legal analysis resulting from a position paper presented by Mr. Chasko about a month ago. The legal analysis covers the history of the issue from its beginnings through the courts all the way up to the Supreme Court. The bottom line of the analysis, per Mr. Spahr, is that Townships are responsible to enforce the Ordinance.

Mr. Spahr questioned the solicitor as to what liability Mr. Brizzi would share if he does not permit the Township to ingress to remove the trees and there is a serious accident and someone is killed. He reported that two different attorneys have told him in the past that if they were not to enforce the Ordinance and someone were to get killed, that each Supervisor would be held liable and could be subject to a suit which could include personal property and individual pension accounts of each supervisor.

Solicitor Chris Furman suggested that the Board condemn the area where the trees are located and do a taking. He said the Supreme Court has spoken on the matter and it is up to the Township to enforce the Ordinance, as a public safety issue.

**Motion** to proceed with the project with the exception of the Brizzi property.

Motion by Ed Frye, Second by Charles Trax

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

Paul Chasko noted that Sidelines Tree Service will have to be notified of the change in the contracted amount.

There was discussion of the independent noise, air quality, and water testing which was contracted to be done relative to the EQT well pad site on Trax Farms. The report from PSI was finalized in regard to some of the testing and had been provided to the supervisors prior to the meeting. Mr. Spahr read the conclusions from that report at the meeting. The conclusions noted that, although there were some initial air quality numbers that appeared to be outside of limits, error was suspected and re-sampling was done. The conclusions did not identify any noteworthy issues.

Mr. Ivery said that he did drive by the EQT site on Saturday and they were drilling, which was the first time during the day time hours that he noticed drilling taking place. He did see some small smoke and he said the drilling sounded like the noise from an airplane. Mr. Spahr said he has been up to the site three times. He also said that one of those visits to the site was when a strong chlorine odor was reported. He said that, when he arrived, the police were there, and there was some activity in front of the Baumgardner's home. At that time, Mr. Spahr did not smell any chlorine odor. On that occasion, he also went down to the well site and talked to the site superintendent and saw some workers and pizza delivery men who were going about their business. It was determined in conversation with Mr. Gniadek that Mr. Spahr would have been at the site around 9:00 to 9:30 p.m. on Tuesday evening which may be some hours after the issue was reported. It was noted that it was also a windy day.

Mr. Furman said that the bottom line is that the Township does not have any evidence of violations despite hiring a third party, at some cost. In regard to claims that the testing being publicized in the newspaper nullified the results, Mr. Furman said that no one knew when the test would take place or that some testing would be repeated. He further communicated that, since the site would have had to shut down from February 4 to March 16 to avoid being tested, the Township has done everything it could have to obtain the results secretly.

The issues with Tomko construction were discussed.

Mr. Breinig, 44 Finley Avenue, complained about crushed stone being moved off-site, down Streets Run Road, without first being watered down. He also mentioned conversations with the DEP and unnamed politicians which took place regarding this occurrence. Mr. Breinig complained about the particulates which could fill the air, namely silica. Mr. Spahr said that the DEP determined that the stone moved was old stone; however it still must be watered down.

Mr. LaTorre, 7 Boyka Plan, complained that, per the DEP, the crusher is supposed to be operated in an enclosed environment and has to be monitored while it is operating. Mr. Ivery noted that the DEP has the authority to enforce the consent order.

Mr. Furman explained that, in the meeting that was held with Mr. Tomko, the business owner was asked to come back with a proposal to address the concerns of Mr. Breinig and Mr. LaTorre in regard to the impact of construction on residents. Mr. Tomko's proposal was that he was going to get a lower horse power crusher which he would like to test prior to putting up any sound wall. Mr. Furman's question to Mr. LaTorre and Mr. Breinig as well as to the Board was whether they would want to be present at the testing of the lower horsepower crusher and watch it operate to see if it alleviates concerns. Mr. Furman said Mr. Tomko also requested a meeting with the Board as a kind of pre-development zoning/planning type of meeting in an

*Board Approved: April 27, 2015*

attempt to be more proactive regarding any issues which may present themselves as their construction continues. Mr. LaTorre declined to attend a meeting with Mr. Tomko.

Larry Spahr said that, in the meetings being requested, Mr. Tomko is seeking specific direction from the Board in regard to the project. For the summer months, heavier use of the crushers is being planned. Rock crushers create more of a dust issue than a noise issue. Mr. Spahr indicated that stone crushing created an issue with dust last summer and that Mr. Tomko did say that he knows that the issue of dust will need to be addressed.

The Board provided confirmation to Mr. Furman to set up a meeting to listen to the new crushers and to schedule a time with Tomko to go over zoning related issues with the Board and code enforcement officers.

In regard to the Overlook sewage issue, Mr. DeiCas said that he was on hold until he receives additional information from South Park. In the meantime, Ms. Taylor will work with Mr. Ivery on a list of residents to be included in the project. If more information is needed, Ms. Taylor will call the residents.

A resolution opposing Governor Wolf's severance tax proposal was discussed in relationship to its bearing on the oil and gas impact fee the Township currently receives. Money from the impact fee, about \$90,000, helps the Township fund police coverage. Other Townships use this income to fund police and other projects. Mr. Chasko asked whether we owned the oil and gas rights for the Nike site because it was a factor in his decision on the resolution. Authorizing a title search was discussed. Later in the meeting, Mr. Powell, a local land owner in attendance, said that EQT had already performed a title search and determined the owners of the oil and gas rights for the Nike Site property to be the Powell's and Dusmal's, not the Township.

**Motion** to adopt the Resolution Opposing the Implementation of the Severance Tax Proposal.  
Motion by Ed Frye, Second by Steve Parish  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

The Airport Resolution was held in abeyance.

The Emergency Operations Plan and Resolution was held in abeyance for review by the Supervisors. The plan will be updated every two years henceforth.

**Motion** to advertise the WCSC Documentation Ordinance for consideration for adoption at the April 27, 2014, Regular Board Meeting  
Motion by Ed Frye, Second by Paul Chasko  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

The fact that the Soccer Association is beginning practice was discussed. No individual has been selected for the Cleaning Contract. It was decided to bring those that responded to the advertisement in on March 30<sup>th</sup> prior to the Codification Workshop to discuss the position and clearances which may be required. Ms. Speer wanted to know if the applicants were Township Residents.

**Motion** to advertise for Zoning Hearing Board Alternate.

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 mentioned that Airport Road has damage. There are sink holes and the pavement is broken up and sunken. Mr. Breinig also added that McChain Road is in bad shape. At some point in the near future, it was agreed that the Road Foreman, Road Superintendent, Mr. DeiCas and Mr. Parish, and whoever else is available, will pick a day in April to review the roads.

**Motion** to approve the use of the park by R.A.Y.S.A. for soccer fields for practice Monday-Friday from 5:00 p.m. – 9:00 p.m. and Saturdays and Sundays for games from 9:00 a.m. to 5:00 p.m. for the spring soccer program which runs from March through the beginning of June 2015, subject to proof of insurance being provided.

Motion by Steve Parish, Second by Paul Chasko

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

#### Public Comment

Mr. Snee made public comment regarding the flooding on Courtney Hill Road. The Board discussed this on-going issue and the fact that Mr. Canestrone, who recently contacted the Township in connection to the flooding issues, recently passed away. Mr. Snee asked that the politicians be written in regard to the issue.

Chris Furman suggested that the Board review the legal guidance and research which was prepared relative to the Airport Ordinance Resolution prior to discussing it in executive session. Several supervisors said that they had other issues to discuss so it was decided that an executive session was still needed.

**Motion** to go to Executive Session at 9:25 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.

The Board returned from executive session at 9:39 p.m.

Mr. Furman said they discussed potential litigation in Executive Session.

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**Motion** to adjourn the meeting at 9:41

Motion by Steve Parish, Second by Paul Chasko

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

A handwritten signature in cursive script that reads "Debra A. Nigon". The signature is written in black ink and is positioned above a horizontal line.

Debra A. Nigon, Secretary