

Union Township Board of Supervisors  
Regular Board Meeting  
November 28, 2016

The Board of Supervisors Meeting was called to order by Chairperson Deborah Sargent at 7:00 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 Larry Spahr, Charles Trax, Paul Chasko, Heather Daerr, and Deborah Sargent.

Also in attendance, Mr. Gary Sweat—Solicitor, Mr. James Harshman—Township Engineer, Judy Taylor—Treasurer, Debra Nigon—Secretary, and Harold Ivery—Building Code Official. Peter Grieb—Code Enforcement Officer, did not attend.

Public Comment

Frank LaTorre, 7 Boyka Drive, made comments relative to the Board's vote at the last meeting to revoke the grading permit of W.G. Tomko and the fact that he is still working. He complained that he had relatives over during the Thanksgiving weekend who had to leave as their baby could not sleep. He played a recording of the noise that he said he and neighbors experience which he described as mining. He noted that the others attending today from the area near Tomko also have issues with dust and noise. Also, he complained about what he heard was a private meeting with Tomko during which time a stay was proposed until the next meeting. He asked that the Board to enforce their zoning ordinance which does not allow mining in C2.

There was discussion by the Board relative to a poll vote they received after the meeting with Tomko which requested a vote on a stay on the decision of whether to revoke the permit of W.G. Tomko until the Board could meet again, which he refused to vote on as did other supervisors as they were unclear as to why they should reconsider their decision on which they believed they had a solid basis to stand. Mr. Spahr communicated that, per his discussion with an individual at DEP, a meeting should have been held with Tomko prior to the decision to revoke.

Rick Grove, 101 Keenan Street, commented, agreeing with the statements regarding the noise from the two ram hoes from early in the morning until around 6:00 pm in the evening every day. He also expressed concerns about a 16 inch gas line which he believes is under stress due to supporting earth falling away and extra weight. He also noted that, although blasting could give relief from the constant ram hoeing, he would be concerned with issues concerning the gas line.

Claudia Valencik, 215 Stonebridge Drive, expressed concerns over the vibrations from the ram hoeing at Tomko potentially causing damage to the foundation of her home or other homes. She also complained that no one can sleep including individuals who are recovering from cancer and illness in the vicinity. She also had concerns about real estate values and not being able to sell their homes.

Ron Valencik, 215 Stonebridge Drive, also commented about the continued noise which he said also extends into Sunday. Although he reported that there is no ram hoeing on Sunday, he does hear the sound of trucks moving and grading. He asked whether that earth moving activity is allowed on Sunday.

Walter Impellicceiril, 105 Stonebrae Drive, commented about the noise at Tomko being an embarrassment and nuisance since his friends and visitors always ask what is going on to cause the racket. Also, he said that his family can't come for prolonged visits because his granddaughter can't take a nap there. In addition, he expressed concern about being able to sell his home since a neighbor up street is having difficulty selling his house.

Hal Breinig, 44 Finley Avenue, commented that he has been coming to Township meetings for over two years, has gone to court with the prior solicitor to the Township, and has also contacted county commissioners, spoken to the DEP, and other government representatives, and so forth, about the issues with dust and noise at Tomko and has seen nothing done. He asked why meetings are not recorded. He commented that he has to turn his television way up just to hear over the noise at Tomko. He stated that the judge who heard the case that he was involved with as a witness is now retiring. He said that Channel 11 would be coming eventually on one of three things, the hillside on Henry's Bend, Tomko doing what he pleases, and he did not list the third. He said that he will not be coming to anymore meetings until the issue with Tomko is resolved. Ms. Sargent responded that though she didn't understand why they were being asked to change their vote initially, there are explanations which will be given as they get to the reports and agenda.

Gabe Durand, 203 Stonebridge Drive, commented said that due to his being in music production, he has sound equipment which he used to measure the decibel level, which was at 83 db. Also he commented that he had a piece of rock on his car which he presumed was from the site.

Pete Guido, 125 Viarregio Way, requested an update regarding Tuscany Estates. The solicitor informed him that a letter was sent to Mr. Danielson outlining the conditions he must meet in for development to continue. Also the solicitor sent correspondence requesting signature on the winter maintenance agreement. Since that time, he has sent to Mr. Danielson a reminder letter to the effect that the Township will not authorize any winter maintenance until his signature is obtained on the winter maintenance agreement. Mr. Guido also expressed safety concerns regarding the community pool which has not been covered and inquired about an inspection.

**Motion** to approve the Minutes of the October 24, 2016, Zoning Amendment, as presented by the Secretary, subject to being true and correct.

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to approve the Minutes of the October 24, Regular Board Meeting as presented by the Secretary, subject to being true and correct.

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to approve the Minutes of the November 14, Regular Board Meeting as presented by the Secretary, subject to being true and correct.

Motion by Heather Daerr, Second by Charles Trax

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to approve the Minutes of the November 15, Budget Workshop as presented by the Secretary, subject to being true and correct.

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to approve Payroll #22 dated November 24, 2016, in the sum of \$10,594.65, as presented by the Treasurer, subject to being true and correct.

Motion by Heather Daerr, Second by Larry Spahr

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to approve Payroll #23 dated November 18, 2016, in the sum of \$9,090.66, as presented by the Treasurer, subject to being true and correct.

Motion by Charles Trax, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

### Departmental Reports

Mr. Ivery delivered the zoning report. He reported on a recent Zoning Hearing Board variance regarding a 48x32 building which had to be moved. The variance was given with the condition that the building be shortened. The owner of 3 Airport Road, Mr. Opferman, was cited as the time given to him by the magistrate to finish the slope had expired. He also informed the Board that, at the next planning commission meeting, the planning commission will be reviewing the oil and gas ordinance. In response to Ms. Sargent inquiry about bonding of Cardox Road, Mr. Ivery responded that the auto store is not actually operating yet; however, he will inform Diamond Trucking of the requirements.

Mr. Harshman delivered the engineer's report. He is working on estimates surrounding the reported dangerous condition on Sugarcamp Road. In terms of the Overlook Act 537 Plan, he and the treasurer will be setting up a meeting to review the financial portion of the plan. Approval of the plan can be held for another meeting since he is still waiting on DEP approval of the advertising language. He requested the Board to provide their comments on the plan.

In terms of the Garvin Road, Dirt & Gravel Road, WCCD application, they have been informed that there has been another change to the parameters involving a concrete headwall. His engineer, Bryan Lowe, will review it.

Regarding the Patterson Road Issue, there is a meeting scheduled this Thursday with representatives of Sunoco to discuss how they propose to implement the improvements. If they make the repairs, they would have to work with a small contractor, which is outside of what they typically do and how they operate; so, they wanted to cut the Township a check. If

they do, that will make the work a public project. Ms. Taylor informed the Board that, since the property is private property, easements will need to be obtained. Also, as a public project, there would be additional costs pertaining to advertising the project out to bid. An option would be that Sunoco could put up to \$50,000 in an escrow to cover all outstanding costs. She also requested documentation providing a detailed estimate to attach to the \$119,000 check, if it is accepted, for accounting/auditing purposes.

The engineer reported that they have added zones for the airport to the zoning map which is being created by his firm. Although the Township only contracted them for a digital copy, he will print out the zoning map for the Board to review.

In regard to Tomko, the engineer explained that due to the information available to him at the time, he advised the Board to revoke the permit. He gave a detailed description of this information which in summary concerned the large soil pile which appeared to obstruct the flight path, the fact that he had not been provided with grading plan revisions, information he had on air quality violations, resident pictures of very dusty conditions, coupled with a lack of response by Tomko.

He reported that due to the revocation of the permit, he did obtain a response from Tomko which resulted in a meeting at the Township building on the various issues. Mr. Harshman informed the Board that the information provided by Tomko at that meeting was in opposition to his impression at the time he advised the Board to revoke the grading permit. It was discovered that the DEP air quality inspector was out on two occasions and saw no problems and closed the complaint. Also, Finleyville Airport issued a letter to the Township stating that they did not have an issue with the soil pile. They attended the meeting with Tomko at the Township building where there was discussion concerning the distinctions between a precision and a non-precision flight zone in terms of the Township's airport zoning ordinance. The flight zone which applies to the airport is the less stringent requirement in regard to potential obstructions. The survey data which was subsequently supplied by Gateway Engineers, shows that the stock pile is not in conflict based on the less stringent requirement.

In terms of the NPDES permit, they received information that the permit is valid though it is being revised, with the DEP being very close to approving the plans. The engineer explained that Tomko had been working under plans that haven't been approved. Mr. Harshman informed the Board that he believes that there is appropriate reasons for them to go either way on their decision regarding Tomko. In terms of mining, there is no written confirmation of any violations to substantiate any decision. Mr. Ivery added that the excavation of rock according to the Township Ordinance is not a violation.

There was discussion concerning monitoring of the dust and air quality at Tomko and whether Municipal Consulting Services or Harshman CE Group should be sent more frequently to document any violations. Ms. Daerr suggested Mr. Harshman and MCS spending two hours a week on unannounced inspections. It was noted that the Board approved a quote from an independent firm to do testing near the Tomko site in the past.

The solicitor requested copies of the consent order and any prior action previously filed by the Township through Dennis Makel.

It was noted that Tomko is currently working even though the permit is revoked. There was discussion on whether to reinstate the permit or to have Tomko apply for a new permit.

Mr. Spahr inquired as to why no communication or meeting was arranged with Tomko prior to revoking the permit.

**Motion** to authorize the Township engineer and the Township zoning officer to conduct a spot visit at Tomko once a week until the next meeting.

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

A volunteer was requested to alert the zoning officer and engineer when their were issues. Frank LaTorre and Hal Breinig volunteered to be the resident volunteers.

**Motion** to authorize the engineer to obtain a quote from PSI to perform unannounced air quality, water, and noise testing of the Tomko site under the supervision of the Township engineer.

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to authorize the solicitor to review and draft any suggested changes to the Township excavation grading ordinance.

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

The solicitor provided his report. He had sent out the police contract to Monongahela for signature. Also correspondence was sent to WCSC requesting dye tests in the vicinity of Mingo Circle. Also, he prepared a draft letter for those individuals with holding tanks and is waiting on the names of those eight or ten owners. Mr. Ivery will provide him with the names and addresses tonight. The winter maintenance agreement was sent to Mr. Danielson as well as a reminder letter. Contracts were also sent to the fire departments for signature. Mr. Berrgren, solicitor on behalf of Finleyville Volunteer Fire Department, requested changes in the language. He will have revised contracts for the Board's review at the next meeting. For the bargaining unit contract that is in effect, he explained, that Article 24 permits the township to contract non-bargaining work as long as it does not end up in the abolishment of a full time position or the elimination of a bargaining unit position. In terms of a contract with an agency who could assist the road crew during an emergency, Mr. Trax will work with Mr. Sweat.

No recreation report or supervisor's report was provided.

**Motion** to approve general funds bills as of November 28, 2016 in the sum of \$35,025.15 as of November 28, subject to being true and correct.

Motion by Heather Daerr, Second by Charles Trax

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to approve Liquid Fuels bills as of November 28, 2016 in the sum of \$1,727.07 as of November 28, subject to being true and correct.

Motion by Deborah Sargent, Second by Heather Daerr

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to advertise the public comment period Act 537 Plan Revision for Overlook Sewage Project area.

Motion by Deborah Sargent, Second by Heather Daerr

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to advertise the preliminary budget for review.

Motion by Deborah Sargent, Second by Heather Daerr

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to advertise and schedule a Special Meeting on December 21, 2016 to adopt the preliminary budget.

Motion by Deborah Sargent, Second by Heather Daerr

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

A new quote came in from Cummins Bridgeway for the generators with which the Road Superintendent seems satisfied. The Board will hold it for review.

The item on road bonding by Walsh was held for another time as there has not been no communication on this issue.

**Motion** to authorize the Treasurer to re-invest the operating reserve CD with PLGIT for 2017.

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to authorize the Treasurer to re-invest the equipment fund CD with Huntingdon Bank for 2017.

Motion by Deborah Sargent, Second by Charles Trax

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried

**Motion** to table the Resolution to amend the fee schedule until the meeting of December 12, 2016.

Motion by Heather Daerr, Second by Charles Trax

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

**Motion** to advertise the Air Quality Ordinance for review.

Motion by Heather Daerr, Second by Charles Trax

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

### **Public Comment**

Hal Breinig, 44 Finley Avenue, commented that he has never seen a water truck and only a hose. He considered any decision to reinstate the grading permit as a slap in the face.

Frank LaTorre, 7 Boyka Drive, provided the name and number of a gentleman at DEP mining relative to his prior comments on ram hoeing being mining.

Mr. Ivery brought it to the Board's attention that the business is working although the permit has been revoked and questioned the current legal standing.

A gentleman in audience asked whether, since the permit is revoked, and Tomko is still working, whether he was cited. Mr. Ivery responded that he was waiting on the Board's decision but will fine him each day since the permit has not been reinstated. Mr. Harshman made a statement that cooperation and progress in relationship to Tomko is what the Township ultimately wanted and recommended that the Board hold off on citing Tomko.

Matt Vibostak, 19 Lake Drive, inquired about the nature of the citation for the property of Mr. Opferman. Per the zoning officer, he is being cited for having a construction yard which includes the issue with the hillside.

Walter Impellicceiri, 104 Stonebrae Drive, commented in regard to fining and documentation.

**Motion** to to to Executive Session at 9:12 p.m. to discuss personnel

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

The Board returned at 9:45.

The secretary and treasurer were invited into executive session together.

Heather Daerr announced that they discussed employee health benefit packages in executive session.

**Motion** to accept the renewal of the current non-bargaining unit UPMC health coverage plan

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

Ms. Daerr informed the Board that Mike Sylvestri would like to conduct an interview with Mr. Tomko and DEP representatives, in Mr. Sweat's presence, as part of his consulting contract.

*Board Approved: December 12, 2016*

**Motion** to authorize the solicitor to attend a possible meeting with Mike Sylvestri and local and state DEP representatives

Motion by Heather Daerr, Second by Deborah Sargent

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried. .

**Motion** to adjourn at 9:55pm.

Motion by Deborah Sargent, Second by Heather Daerr

Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

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Debra A. Nigon, Secretary