

Union Township Board of Supervisors
Emergency Meeting / Budget Workshop
November 29, 2016

The Board of Supervisors Meeting was called to order by Chairperson Deborah Sargent at 6:00 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 were Larry Spahr, Charles Trax, Paul Chasko, Heather Daerr, and Deborah Sargent. Also in attendance, Judy Taylor–Treasurer, Debra Nigon–Secretary, Mr. Gary Sweat–Solicitor, Mr. James Harshman–Township Engineer and Mr. Jarod D’Amico–Harshman Engineers, Judy Taylor–Treasurer, Debra Nigon–Secretary, Harold Ivery–Building Code Official, and Peter Grieb–Code Enforcement Officer.

It was explained that the workshop meeting tonight was initially scheduled to discuss the budget; however, the way it had been advertised allowed the Board to discuss other business. That being the case, due to issues surrounding the revocation of W.G. Tomko’s grading permit at the last meeting, representatives from Tomko were invited to attend the workshop as well as the Township engineer and zoning and code enforcement officers to further discuss the matter.

Other individuals who attended to discuss the issues concerning W.G. Tomko were Mr. W.G. Tomko, owner, Ms. Jessica Quinn Horgan, solicitor for W.G. Tomko, Mr. Brad Wight, Gateway Engineers on behalf of W.G. Tomko, Mr. Tom Reimer, Manager of Finleyville Airport, Charles Stuead and Philip Finet, pilots who use Finleyville Airport.

Emergency Meeting

Jessica Quinn Horgan, solicitor for W.G. Tomko, requested that the Board allow her an opportunity to present the position of W.G. Tomko. She mentioned that W.G. Tomko was not given notice or an opportunity to respond prior to the Board revoking the permit on November 16. Following November 16, the zoning officer sent them Notice that the permit was being revoked. Upon receipt, Ms. Horgan said that she requested a meeting of the parties which was held on November 18.

During her presentation, Ms. Horgan addressed each deficiency in the letter emailed to W.G. Tomko on 11-16, dated 11-15-16, from Mr. Harold Ivery which provided notice that per the engineer’s recommendation, the Township was revoking the permit due to a list of deficiencies. The deficiencies Ms. Horgan read aloud were (1) that there is conflict with the proposed grading and final scenario, (2) WCCD / DEP has not confirmed an approved ND PES, (3) DEP mining violations are unresolved; and (4) grading plans are not consistent with other state and local departments.

Mr. Tom Reimer, Manager of Finleyville Airport, addressed the issue of a precision approach vs. a non-precision flight approach which was discussed at the November 18 meeting. The strictest approach requirements were applied in the Township’s Airport Zoning Ordinance; however, per Mr. Reimer, the non-precision requirements which pertain to a visual aspect approach, as opposed to an instrument approach, are the best requirements that the Airport

could hope to meet. The FFA is expected to run verifications by a specially equipped aircraft in January, after which they will publish the non-precision approach. With regard to dust and any adverse conditions resulting from the construction, Mr. Reimer explained that, on a daily basis, they check conditions at the end of the runway for any issue which would affect any aircraft coming into or out of the airport. They have not had to issue what is referred to as a "NOTAM," which, simply put, is an official notice in their industry. Mr. Reimer invited some pilots to the meeting who reported that they had no issues with a visual approach when flying in or out of the airport during peak construction activity at the Tomko site.

Also Mr. Reimer communicated that his understanding, in speaking with Mr. Tomko, is that the soil pile will eventually be spread back over the graded land to grow grass. He and Mr. Tomko have also discussed issues regarding the northwest perimeter and the abutment. Mr. Reimer said that the grading project is improving the run off at the end of the runway; so, the project itself will improve conditions on the runway. The only thing that is still an issue for the airport is the gas well which is not owned by Tomko.

Moving on to the next discrepancy, Ms. Horgan, informed the Board that Tomko does have an approved NPDES permit, as they are working under the current NPDES permit which is being modified. Brad Wight, of Gateway Engineers, informed the Board that W.G. Tomko submitted a modification to the WCCD. Subsequently, there were comments to the modification request which were addressed by Tomko and they are still working out the final details.

Mr. Harshman explained that W.G. Tomko is working under the authorization of an NPDES permit which was approved per an original set of plans which the Township received. The Township had not received the plans which were submitted with the WCCD modification request until just recently. The modification request is still pending official approval. Mr. Harshman's opinion was that grading had been taking place outside of the original grading plan; whereas, Mr. Tomko asserted that the grading which had been done was per the original NPDES permit, except for the placement of the soil pile which he requested and received permission from the state to place on the property. The question of whether grading was occurring outside of the plan was not completely resolved at the meeting as the engineer noted some other discrepancies regarding ponds and slopes which were not reflected in the original grading plan. Mr. Wight handed Mr. Harshman revised drawings at the meeting. Nonetheless, with the engineer having received communication from WCCD that the new plans are close to being approved except for some minor corrections, Mr. Harshman left it at the Board's discretion.

The next deficiency discussed by Ms. Horgan was in regard to mining violations. Although W.G. Tomko applied for a mining permit they have not received a permit. Ms. Horgan explained that, since they have no permit, it is impossible for Tomko to have permit violations. Mr. Harshman provided some background to the Board as it pertained to conversations he's had with DEP Mining and an inconsistency that exists between state and local governmental agencies which they would like to resolve as it pertains to the excavation of limestone and sandstone.

In regard to questions regarding dust, Mr. Tomko explained that their duty is to take the necessary steps to keep the dust from migrating off the site, but that photographs of dust at the

construction site itself is not a violation since there is no proof that it migrated off the site. Also, Mr. Tomko said that, though he had given his number to multiple individuals on StoneBrae, he has not received calls in a couple of months. Mr. Reimer was also asked about whether the dust is an issue for the airport. He informed the Board, that the airport checks for problems at the end of the runway every day. They look for film on the lights or a layer of dust on the numbers painted on the runway, and they do not see issues. He said the airport watches to see whether there are plumes of dust when large trucks drive up from over the hillside and dump the earth since a plume of dust and dirt could be sucked into a plane engine. They have not seen an issue.

Ms. Horgan requested that the Board reconsider its decision based on what she explained as a lack of evidence that violations or deficiencies exist. She also restated that her client was not given notice before the permit was revoked, that they have been working towards compliance with the DEP, and that the Bureau of Mines saw no benefit to stopping work as they are working towards compliance.

Per the Board's inquiry, Mr. Tomko reported that construction activity is anticipated to continue until the end of December, at which time, due to weather, they will stop work until the spring. .

Mr. Tomko made additional comments to the Board. He noted that four of the twelve individuals he employs are residents of Union Township. Also, he commented that twice a week he goes out with a decibel reader to take readings and only once got a high reading. Also he announced that due to the business received from the oil & gas industry, he may expand again in 2018 as he has had to rent yard space from Mr. Lawson for some of his equipment. He also commented that blasting would be a quicker way of excavating but, due to the scrutiny he is currently under, he would rather not attempt that method of excavation.

Ms. Horgan was asked by Ms. Daerr as to whether she had any conversations with anyone at the meeting. She indicated that she did speak with Mr. Spahr regarding the November 18 meeting held at the Township building and had spoken with Paul Chasko at that meeting. She also had had various conversations with Harold Ivery and Mr. Grieb.

Mr. Reimer noted that, should the permit be revoked, this could result in a safety issue involving the perimeter edge of the property as was noted in a recent letter from Finleyville Airport to Tomko.

Ms Horgan said her client will seek court action as opposed to reapplying for another permit since she does not believe the Township had a right to revoke the permit since nothing was proven.

Public Comment

Frank LaTorre, 7 Boyka Drive, commented about the dust from the site which he believes is migrating. He said that he has a classic car which he washes every other day that always has a coating of dust which could scratch the paint that he invited those attending to come out and see. In regard to noise, he mentioned the resident from the meeting the day before who measured the sound level at 83 db using his own instruments. He also asked Mr. Tomko

whether he intended on crushing the rock that is coming off the site and if he is watering down. Mr. Tomko confirmed he is watering down. He also informed the resident that he would crush the rock if he gets a mining permit.

Mr. Ivery was asked about what the limitations were for noise per our Ordinance. Mr. Ivery explained that noise during construction, per Union Township's Ordinance, is exempt.

Hal Breinig, 44 Finley Avenue, made comments relative to remembering Mr. Tomko wanting to be a good neighbor in the past. He also said there are people living in the area who are older, some with lung disease, who want to live out their life in peace. His other comments were that he was glad the work is only six days a week and not seven. However, he noted that the work has been going on for several years and that the Board "can't imagine what it's like" and "could not live in Boyka Plan for a week."

Cody Polfus, Boyka Plan, said he had not been to the prior meeting. His understanding was that Tomko had an approved plan to bench his hillside in compliance with DEP and, after that was done, he would build his building. Since, the building looks complete to him, he inquired as to why construction was continuing. James Harshman offered to show him the plans at another time. To summarize, Mr. Harshman explained that the bottom line of the current construction activity is to create more flat area behind the buildings for storage of W.G. Tomko equipment. He said this project has nothing to do with prior approvals. Mr. Polfus, also had questions about the purpose of a multi-municipal plan which he was directed to ask at a separate time since that it a big topic which could not be addressed with a quick response.

Charles Stuead, a pilot out of Virginia, attended at the request of Finleyville Airport. He said that he has been flying into the airport for many years and it has been better than it has ever been.

Mr. Sweat asked Mr. Tomko about a noise barrier or sound wall in terms of whether that could be helpful. Mr. Tomko said that the last time the neighbors complained, the Township hired an independent firm to do testing. He would be interested in seeing the results of testing. In his office, he said the noise registers 40db in the daytime although it could get close to 100db closer to the work site. If residents are indeed getting readings of 83db, then he would be willing to look into a sound wall or sound blanket which he is aware they do make. He did note that noise levels will be highest as they work on the high end, but as the equipment moves down the hill, it should get quieter. Also, he said that he cannot reduce the time he's working because 2 to 3 days would cost people wages.

Mr. Sweat inquired as to whether Mr. Tomko would be willing to split the cost of testing. If testing were reasonable, he said he would be willing. The Board is assuming price would be in the range of \$8,000 which since that was the approximate price of the testing done around the Trax well site. Mr. Tomko thought that price sounded high.

Motion to reinstate the excavation and grading permit pursuant to our grading ordinance, Grading Permit No. 5675 issued to W.G. Tomko, and stay any enforcement action pending receipt of the modified grading plans and elimination of the issues surrounding the NPDES permit.

Board Approved: December 12, 2016

Motion by Deborah Sargent, Second by Heather Daerr

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

Mr. Spahr said he can hear the construction activity very clearly on McChain Drive.

Motion to schedule a Hearing for a Zoning Amendment in relationship to Air Quality at 6:30 p.m. on December 21, 2016.

Motion by Deborah Sargent, Second by Charles Trax

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

Budget Workshop

A new version of the budget was presented by the Treasurer. The deficit of revenue vs. expenditures was down to a deficit of \$369,340.00. The bolded items reflected line items which had been changed.

The budget item for soccer was discussed. The \$1000 in the budget was stricken.

Revenue from the Winter Services Agreement is an unknown since, at present, the document has not been signed and returned. The \$9,800 in possible revenue was reduced to \$100 as a placeholder.

Ms. Taylor explained that, in the past, she did not include as revenue any grant monies for which the Township was applying since it could not be determined whether those applications would result in funding. She had included it this time, as it was a little more active, with the Township having hired a grant writer. She asked the Board if they desired to leave it in or not. If the grant funds were to come in, the revenue would be in the budget. If not, then the funding would be a bonus. The danger would be that, if the revenue were to go toward balancing the budget and it is not received, it would put the Township more in the hole. The Board thought it best to take that revenue out.

At line item 392.010, for Impact Fee revenue the Treasurer used \$150,000 which would be equal to what was received in 2016 on the assumption that it will not decrease again, as it recently did, by \$30,000 from the year prior.

It was discussed that certain millage percentages can be raised for certain purposes. Act 511 taxes cannot be levied for police but can be levied for fire, hydrants, and other public safety. It was discussed that hydrants are currently paid out of the general fund. Ms. Daerr inquired as to whether the Township had ever used the general fund fund balance to balance the budget. The Treasurer informed her it had last year, in the sum of \$70,000 which did not actually end up being needed for various reasons: a fourth road crew worker wasn't hired in that year and other unplanned revenue and unspent planned expenditures. In 2016, we ended up adding \$300,000 approximately to the fund balance.

The Secretary /Treasurer item has been budgeted at \$84,000 to allow for two full time employees which is what has been in the budget to allow for two full time staff. It was decided

to bring it down to slightly over the actual expense of one part-time and one full-time employee to the Township.

In regard to engineering expenses, it was noted that there seemed to be no good way to stagger the engineering costs over several budgets since many of the sewage related expenses were demanding immediate attention. Ms. Daerr made note of variables that affect the numbers in the budget in terms of escrows off-setting some of the engineering expense and potential savings on projects which may have otherwise cost more. Ms. Daerr commented that , in terms of changes to the budget, the only additions have been the police and the Township Manager, which together are \$125,000. She expressed difficulty in understanding the current deficit; however, she made note that Mike Sylvestri's recommendations will not be ready for about three months.

Item 430.100, Salaries, was discussed in terms of the highway expense. Charles Trax said that it had been his thinking that the recent road crew employee that was hired was intended to replace current road employees nearing retirement age. The Board determined that one road superintendent and three union road crew members will be sufficient. It was noted that this salary budget item for highway was way under budget for 2016; however, it was also noted that the Township has to budget for possible early snow and bad weather. Also, there is still over another month of work left in the year and one crew member has been on worker's compensation instead of salary. By eliminating a position, the budget item for highways could be reduced down to \$212,000.

With that item reduced, item, 430.157, Benefits, will also come down to \$60,000.

There is still no estimate provided for the redesign of the intersection of Trax and Sugar Camp roads. Ms. Sargent said she spoke with the engineer prior to the meeting about Sugarcamp Road and the engineer suggested that \$25,000 may be a conservative estimate for what was communicated as a three tiered approach involving signage and lines in the first tier with second tier and third tiers occurring in other years. The budget amount for that category was reduced to \$20,000. Mr. Harshman can provide additional information.

The FICA and Medicare expenses will be modified due to the road crew position being eliminated. Worker's Compensation will be affected as well.

For item 492.305, the Treasurer explained that she put \$20,000 in the budget for transfer to the capital reserve as matching funds for any CBDG grant received to continue demolition at the Nike site.


Debra A. Nigon, Secretary