

Union Township Board of Supervisors
Regular Board Meeting
March 13, 2017

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, Jarod D’Amico—Interim Building Code Official, and Code Enforcement Officer.

Public Comment

Departmental Reports

Mr. Harshman delivered the engineering report. He received several proposals for the McChain Road slide repair proposal, with the lowest responsible bidder being Slusarczyk Excavating in the sum of \$72,164.00. Per Mr. Corace, he bought the property in 1997 from his father who acquired it in 1991. He afterwards discovered that his house is built on a mine shaft and is falling in which is why he has not spoken with his dad since then. Mr. Spahr asked Mr. Corace if he thought the Township should pay the entire cost of the repair.

Mr. Harshman said that the slope to the left of the slide is steeper than it should be and contains fill material. Although there isn’t a current failure on the left, a failure could potentially happen there and also to the right of the current slide. However, Mr. Harshman said that the current slide has to be repaired. He also said that he does not believe the potential slide to the left and right are in any way the Township’s responsibility. In terms of responsibility for the current slide area, Mr. Harshman said that the only way it could be considered our responsibility is if we excavated out the toe of the slide.

The prior work on the slide area during the McChain Road Aquilia Road Drainage Project was discussed. The work done at the site was added by change order and no additional specifications pertaining to the change order exists though mentions are made in the minutes and in the change order itself. Ms. Daerr read a motion from past minutes which used the word “repair” in relationship to the slide. Per the recollection of Mr. Chasko, the work being done was just to remove loose fill material. Mr. Spahr explained the problem in the past as being that the slide had been encroaching out into the roadway causing an unsafe condition. He said there were lengthy discussions on the matter surrounding the possibility that the base could be lost; but that the Township had to take into consideration encroachment in the cart way which they were trying to take care of without exorbitant cost. Therefore, while Morgan Excavating was there, the change order was added for Morgan Excavating to remove whatever fill they needed to remove. There were no extensive specifications that he remembers. He explained that the Board had a choice as to whether or not to clear the cart

way in that, although it is the property owner's responsibility due to the fill material on the hillside, by letting it continue to slide, it creates a danger to traffic. He also said that, since the fill material is covering a spring, what was done there may not be a final solution. Mr. Harshman explained a complication being, that in the very beginning, if the slide was occurring because of fill that was placed, it would be the property owner's responsibility, although the township may have still have had to take action due to encroachment onto the Township roadway. However, when material was excavated out, the road was widened. Mr. Corace said that the problems started after McChain Road was paved and the hillside was sprayed by another party killing the vegetation. He said that there used to be cat tails where the spring is located. Mr. Harshman reiterated that, if the slide is repaired at this time, the Township will not have any responsibility for the potential slides to the left or the right. Mr. Chasko was of the opinion that the primary concern to the Township is to protect the road, and that, though he is not a township engineer, he felt this could be done much less expensively through construction of a block wall three courses high to bring the slope up. Mr. Mellor's estimate of the price for a block would be roughly \$4500 for each 2'x2'x6' block. Mr. Chasko informed the Board that the blocks weigh 4000 lbs and are interlocking. If a wall of these blocks were constructed, it could also be extended to the left and to the right in the future.

Mr. Harshman's comment regarding a wall were that, since it would be the building of a structure, it would need to be determined who owns that structure because retaining walls are known to give out over time. If it is the Township's property, a permanent easement may be needed. Other comments were that stone and drainage would need to go behind the block, but that an 8-12 foot high wall could be done by the road crew, eliminating the need to hire a contractor. Mr. Sweat said that it is a disadvantage to not currently know the design of the wall.

The solicitor also noted that there had been a complaint at one time filed by Mr. Makel to which Mr. Corace filed preliminary objections. Mr. Sweat noted that, in the complaint, there were allegations that the property owner was responsible for the damages. Mr. Sweat read from the complaint pertaining to the allegations. The case was later withdrawn.

Mr. Spahr said that no evidence was found, due to a situation with the trees at that time, that the fill was being dumped on the slope. Mr. Spahr said that he has heard that a gentleman by the name of Ricky Abel did the site preparation for Mr. Corace's father when he owned the property, and he had dumped material from the excavation over the hill.

Mr. Corace said that he had pictures of the excavation that was done by Morgan Excavating where the material was removed and packed down.

Mr. Sweat clarified the issues in that it is the Township's responsibility to maintain safe roads, which is a road issue. However, he stated that there is a separate real estate property issue in that you have a right to expect adjacent property owners to provide lateral and adjacent support. Mr. Corace did say that 5 one ton truck loads of fill were placed at the top. Mr. Harshman noted that putting material on top of a slide will destabilize the slide by adding weight to the top. Upon inquiry, Mr. Corace said that he does not feel his actions contributed to the slide.

Mr. Chasko was of the opinion that all the Township must do is protect the road. Mr. Harshman explained that Mr. Chasko's toe anchor proposal could save some money by limiting the work. The wall would not address the current drop-off, or cliff that was created on the property of Mr. Corace due to the material falling away. However, he noted that, if organic material or other material is added inappropriately the slide could go over the wall. There was some discussion of the appropriate type of drainage and material which should be placed behind the wall.

It was suggested by Mr. Sweat that the Board needs to review the integrity of construction and cost of construction to make a decision. Mr. Harshman will prepare a design which will take about another week or two.

Ms. Daerr said that she wanted it documented in the minutes that there was a rumor going around that the reason the Township is paying for the slide repair is because she and Mr. Trax are friends with Mr. Corace. She said she wanted to clear up any misunderstanding. She asked Mr. Corace whether he knew her before she met him a few months ago. He said he did not. Mr. Corace also said he met Chuck Trax two years ago when he offered to help with the slide issue.

It was noted by Mr. Spahr and Mr. Sweat that it will end up being the Township's responsibility to clear the road should material go over the wall and onto the road. Mr. Harshman stressed that the fill behind the wall will be the responsibility of Mr. Corace to do to certain specifications to prevent slippage again, as would be the case if all organic material is used.

Mr. Harshman was asked to report on what Morgan Excavating had told him, when he contacted him for a quote, about his prior work there. Mr. Harshman reported that the contractor informed him he was hired to remove material from the roadway and excavate to proper grade for around \$17,000.00.

Mr. Sweat had questions about how the case was withdrawn and only the initial pleadings were filed. It was discussed that, when Mr. Trax, Mr. Makel and Mr. Corace met, no one could definitively determine who was responsible for the fill; so, instead of spending more money on court proceedings, a quick determination was made to spend the money towards resolving the problem. Mr. Corace explained that the legal case never went to a hearing.

Ms. Daerr also had questions about the Coal Bluff Slide since she said she received anonymous calls from residents relative to the joint repair of a slide on Coal Bluff Road and a slide on Gilmore Road at a cost of \$151,000 and another repair on Coal Bluff in 2014. Per Mr. Mellor, there are several different slides in that area. He noted that Rick Lawson, who was in attendance, was employed at one time to clean up debris from a slide. Ms. Daerr said she was trying to determine who owned the property on Coal Bluff where the slide was repaired in that the repair. It was discussed that the whole road and cartway fell away. Mr. Chasko estimated two feet of roadway began sliding down the hill. Mr. Daerr and Ms. Sargent commented on the fact that a precedent seemed to be set for going onto private property. Mr. Spahr's comment was that measurements would need to be taken from the center of the road and that a surveyer would be needed to determine if all repair work was on our right of way or not.

Motion to table the emergency quotes for the McChain Road emergency slide repair project and authorize engineer to work on an alternate design.

Motion by Deborah Sargent, Second by Paul Chasko

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

Motion carried.

Mr. Harshman mentioned that an easement agreement will be needed, but that the new design may not require the same footage.

The paving project was discussed. Mr. Harshman said that they had originally wanted to include Braden Road but had decided to leave it out of the paving project. However, the budget came in at \$120,000 for the three roads which were planned to be done, leaving a possibility that Braden could be done as well. They would like to add Braden Road as an option. Mr. Harshman also said that he would like to push the dates back on the paving project to include Braden. Also, Mr. Kovach at PCSA would appreciate the delay since he wants to review the roads for their manhole program.

Mr. Harshman said that he will need signature soon on the Overlook Act 537 Plan once the Resolution is passed.

Bids were opened for the Garvin Road culvert project at 8:16 p.m. Mr. Harshman read the bids which were submitted by two contractors:

El Grande Industries	\$82,593.00 total bid	bid bond of 10% was included.
Morgan Excavating	\$126,363.00 total bid	bid bond 10% was included

Mr. Harshman will review the bids and provide a recommendation to the Board.

Mr. Harshman mentioned that the Sunoco developer's agreement has been going back and forth between the solicitors since they had modified our standard agreement. The contractor is ready to do the work but is waiting for the agreement to be signed. He mentioned that Sunoco will be direct billed for engineering for the access road since they agreed to pay for engineering. There is no current escrow. Once the agreement is signed, Mr. Harshman informed the board that there will be an escrow.

An item was on the agenda for a Cooperative Agreement requested by Kerry Fox since he was under the impression that the Township would be handling administration of the grant. Mr. Harshman recommended that, although the Township originally wanted to roll costs into the grant, that the Township continue with the Township administering the grant, which would mean that bids would be received here as opposed to Kerry Fox's office. It was discussed that the decision had been made at a prior meeting that the Redevelopment Authority would be handling administration to cover the costs. Since Mr. Harshman has been communicating with Mr. Fox, he will coordinate with them whatever needs to be done. Ms. Taylor explained that the difference would be that, if construction were to come in low, i.e. at \$130,000, then the Township could lose \$20,000 which would have otherwise been covered since we didn't let

Kerry Fox at the Redevelopment Authority handle the advertisement and bidding portion of the grant.

Various changes which should be made to the fee schedule were discussed. Mr. Harshman said that their firm will be submitting a proposal to the Board for BCO and Zoning services. In that proposal, they have their own fee schedule which they propose the Township to adopt. He suggested that fee schedule changes be post-poned until after the decision is made on zoning and building code official services.

Jarod D'Amico noted that the zoning applications for the Township are not very clear and some language needs to be cleaned up requiring simple changes. It was discussed that zoning is the where, and building is the how. For example, a shed requires a zoning permit in that it shows where on a parcel the shed will be placed. The fees cover administrative costs.

Mr. Spahr inquired as to whether, in the interim, permit fees are being split with Harshman CE Group. Mr. Harshman said that, the way their permits are issued, is that the resident pays the fee directly to them. Since the permit is issued by their office, they collect the fees for the permit and the Township would only get the zoning permit fees. Mr. Sweat informed the Board that it is the building inspection fees that generate the larger amount of revenue and which are generally split rather than the zoning fees.

Ms. Taylor reported that she is having accounting difficulty with the code enforcement report since it is topical and does not show any hours, and code enforcement is being billed at an hourly rate. She needs some detail on time spent for the invoice. We currently pay \$35/hour up to \$1200 per month. If the Board is satisfied with not having the actual hours, she will pay the invoice and attach the topical report. It was discussed by the solicitor and Ms. Daerr that the list of issues dealt with could be divided by eight hours. Mr. D'Amico said that if he responded to complaints, and there was only one complaint, code enforcement would be less expensive, but that it depends on how the board wants him to work. If he waited until he had 1, 2, or 3 complaints, and waited to address them altogether, and then came in and noticed a few other things, it might be more cost efficient. He also mentioned that he needs a point person to ask questions in terms of things like when the owner of a junk car requires more time, like an additional 30 days before removing the vehicle. Mr. D'Amico also confirmed that he does not leave his car for when he does code enforcement, as it is preferable to zoom in with a camera or enter onto the complainant's property to view problems, etc. Ms. Sargent asked him to coordinate with Paul Chasko and Chief Tempest as to how he is to proceed.

Mr. Harshman commented on Mingo Circle sewerage. He has touched base with the sewage authority. Stan Glumac has been in Florida. The Township will need to follow up with the SEO as there is a smell of sewage and some strategic dye testing will need to take place to determine origin. Mr. Sweat said that someone will need to take the place of Peter Grieb as go between. In terms of holding tank permits, Mr. Harshman said that there is only one holding permit with that resident still requiring other items. He we will put together a summary. Ms. Taylor has a list that she will send to him.

Margorie Williams, 17 Mingo Circle, commented from the audience. She asked why the drain for storm water is now gone since water that used to drain beside the neighbor's house is now

headed to his front door. She also stated her opinion that there must be a spring up on the hill that has been covered over since she sees water coming from the hill. Mr. Harshman's response was that sewage enforcement has to be handled. He cannot say equivocally that everything that should be dye tested has been as there are multiple drains which have been found.

The solicitor provided his report. The Winter Maintenance Agreement has been signed by Fairfield Landscaping.

Also he noted that he provided the Board with a resolution for remote participation at meeting. He also has written a letter to the chief of SWRPD communicating the Board's decision on court hearing attendance. He has not heard back from them. He also stated that the agreement with the road superintendent has been completed. Also, he and Mr. Chasko worked on a proposal that needs to be discussed in Executive Session so that they can get back to Mr. Winters relative to the Teamsters contract. In terms of the WESA Draft Service Agreement which was sent to him by their solicitor, the solicitor requested Mr. Harshman for his review and opinion regarding the rates.

The Road Report was provided. At the end of the report, Mr. Mellor included a list of items which need attention at Brownsville Park and requested the Board to make a decision on these items. He noted that there is no padding on the soccer nets. Also, the seals on the pop coolers are gone, causing the coolers to run constantly. There is also a need for mulch, shrubs, new ladies room and mens room faucets, installation of a baby swing, repair of the septic tank, and other items. The secretary was instructed to contact soccer association about the last four items to make sure they are done before the season begins.

Relative to PA One Calls at Tuscan Estates, Mr. Sweat noted that Mr. Mellor should not be doing them if Mr. Danielson is a member. However, Mr. Sweat has not been able to get in touch with Mr. Danielson to determine membership.

Mr. Mellor will get a quote from the uniform company for cleaning.

Officer-in-Charge Kevin Harris delivered the police statistics. There were 167 calls for service which included 23 traffic citations, 9 misdemeanors, 10 accidents – 7 non reportable, 5 drug arrests including one for heroin, cocaine and marijuana, 11 criminal arrests and 9 non-traffic citations. He also mentioned that First Energy reached out to them about coverage for Mitchell Power Plant which is being discussed. Ms. Daerr noted that there have been 30 criminal arrests in two months.

Public Comment

Frank LaTorre, 7 Boyka, commented about an issue of concern with salt for the winter maintenance contract being stored at Tomko, sitting on pavement, and running into creek. He made mention that Tomko was shut down due to non compliance with the DEP and requested that he be compliant before moving forward on any other plans. Relative to the discussion on the McChain Road slide, he commented that work should not be being done on private property. He also commented about the payment for building code inspections in that his

opinion that if the Township is paying them an hourly wage, that all the fees should come to the Township.

Mr. Daerr, 6187 Route 88, commented on the McChain slide as to what risk there is between now and when the alternate plan is completed. Mr. Harshman assured him that the road crew has done a great job and has not got enough recognition for keeping the road cleaned up and safe.

Rick Lawson, 561 McClelland Road, commented about Mr. Sweat's prior statements relative to the right to expect adjacent property owners to provide lateral and adjacent support. He, as a contractor, has never heard this before and expressed his opinion that it would be wrong to repair private property and does not understand why the Board is considering the repair. Mr. Lawson said that the Township should continue scraping the road as the material encroaches. He also mentioned that Mr. Corace will have to back fill in the right way and expressed doubt that this will happen or that he will stop dumping fill. His opinion on the Coal Bluff Road slide was that it should be shut down instead of spending another \$100,000 or so in slide repairs. Mr. Lawson also made a statement relative to the fact that four candidates were to be on the ballot for Union Township Supervisor, but that Mr. Steve Parish had filed a motion with Washington County Court to have Heather Daerr and Richard Lawson struck from the ballot. Mr. Lawson said the challenge to their candidacy was filed with Larry Spahr at the Board of Elections who is also on the ballot. He said that the stage is set for only two democrat candidates. Mr. Spahr's comments were that the two potential candidates have to go to a hearing before a judge who will make the determination, which is not yet known. Mr. Lawson commented also that he believes the areas to the left and right of the current McChain Road slide will come down and does not see spending \$80,000 to \$100,000 when there is no certainty that the sliding will stop.

Mr. Matola, 7 Maple Street, commented that, when the EQT compressor station hearing was held, when the noise was affecting them, he did not comment, because he felt he was farther away than those impacted parties. In the 4th Quarter of 2016 there was a noticeable but not objectionable hissing sound coming from the plant – when 2017 comes around it is quiet as a bell. He is wondering whether they put some money in to quiet it down substantially because hasn't heard that sound. Last meeting on December 12 – in the last two meetings and asked about commenting.

Mr. Kevin Daerr, 6187 Route 88, commented regarding the slide on McChain Road. He said that, if fill being on the hillside was really the problem, he doesn't understand why Mr. Makel withdrew the lawsuit. He said he is also wondering whether the necessary due diligence was done at the outset, prior to any litigation. He also commented amount the lack of detail contained in the prior engineer's invoice and records which makes determinations on the matter more problematic since information is now missing. Mr. Daerr made comparison to the high level of detail and record keeping that is provided by Harshman CE Group.

Sandra Brandis, 391 Finleyville-Elrama Road, had a question about Robb Lane. She said that it is a private road; however her father, who is 87 yesterday, is having issues with a neighbor relative to the grading of the road. She said that the neighbor grades the road which directs water onto her father's property which he then grades back. She said the water used to go

through the swale which has now been filled in to make access to the neighbor's garage easier. Tom Mellor would like to talk to the neighbor relative to directing the water on her dad's property. Mr. Sweat suggested that the two neighbors come together on a maintenance agreement which would be an agreement as to how they will maintain the road.

Motion to approve general fund bills as presented by the Treasurer in the sum of \$25,847.62
Motion by Charles Trax, Second by Debora Sargent
Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-abstain. Motion carried.

In terms of the police fine agenda item, Mr. Sweat advised Ms. Taylor to continue to hold the check until SWRPD responds. His opinion was that, if we pay the court time, we should keep the fines.

In terms of the agenda item on the Planning Commission terms, three of which are ending in the same year, which is against code, Ms. Sargent's thinking was that it was most fair for the term of the alternate to be adjusted.

The solid waste contract extension was discussed. Since they have not gone out to bid in a while, having accepted already a two-year contract extension, the Board discussed putting solid waste removal out to bid.

In terms of the WESA service agreement item, Ms. Harshman will get back to Mr. Sweat with his recommendations.

It was discussed that the Organizational Review Workshop for delivery of Mr. Silvestri's observations and recommendations had to be post-poned since the materials could not be reproduced in sufficient time. The Organizational Review Workshop has been rescheduled for March 15, 2017, at 6:00 p.m.

In terms of advertising with the Mon-Valley Independent, Mr. Spahr noted that the intent of advertising is to reach as many people as possible. The secretary was asked to obtain numbers on actual subscriptions in our area.

Motion to go to ex at 10:19 to discuss contracts.
Motion by Debora Sargent, Second by Paul Chasko
Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried. .
Motion carried.

The Board returned from Executive Session at 10:28 p.m. Ms. Daerr said they discussed personnel in regard to the union contract.

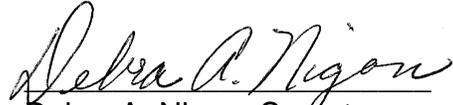
Board Approved: March 27, 2017

Motion to adjourn at 10:30 p.m.

Motion by Heather Daerr, Second by Deborah Sargent

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

Motion carried.


Debra A. Nigon, Secretary