

Board Approved: March 23, 2015 with revision as noted

Union Township Board of Supervisors
Regular Board Meeting
March 9, 2015

The Board of Supervisors Meeting was called to order by Chairperson Larry Spahr at 7:05 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. Edward Frye could not attend. Also in attendance, Dennis Makel--Solicitor, Judy Taylor--Treasurer, Debra Nigon--Secretary, Harold Ivery--Building Code Official, and Peter Grieb--Code Enforcement Officer. Mr. Carl DeiCas--Township Engineer did not attend.

Public Comment

Mr. Baumgardner, 47 Cardox Road, said he filed four complaints recently and wants a copy of the formal complaint which would have been generated by the Township to EQT regarding the noise from the Marcellus well by his home. Mr. Makel said he would send that complaint to him tomorrow. Mr. Makel confirmed with Mr. Baumgardner that he received copies of the test results he requested from Mr. Makel's office at the last meeting, which Mr. Baumgardner acknowledged were received. Mr. Baumgardner played for the Board an audio recording of fracking noise he said was at a 72db sound level that he experienced on March 2, 2015, at 4:10 a.m. He also reported several other incidents of noise at his home which he has documented where he personally recorded readings in the mid to high 80 decibel range. He said that today, before the meeting, this level of noise went on for an hour. Mr. Baumgardner complained that his experience has been only of multiple delays with the Township only issuing warnings. He instructed people to put pressure on their Board to enforce noise ordinances.

Ms. Jane Cionni, 137 Cinque Terra Place; Ms. Barbara Stover, 135 Viarregio Way; Pete Guido, 125 Viarregio Way, and Ron Recker, 174 Cinque Terre Place, who introduced himself as part of the Property Management Committee of the Tuscany Estates Homeowner's Association, each commented regarding conditions in their development. The residents communicated a measure of low confidence and concern that even though the guard rail was installed on Grossetto Road by the developer that this work wasn't done until the last day the PA One Call was still valid, other work requested still remains incomplete despite prior notice, the vehicles and equipment have not been moved, and the bond expiration date is quickly approaching. Ms. Stover said that the dumpster has been removed but the propane tank, port-a-john and other debris still remains. Ms. Stover provided pictures of all the debris to Mr. Makel. Mr. Recker had questions in regard to the Notice of Default which was served on the developer, the extension which was requested and agreed to by the Township to accommodate a meeting by the legal counsel of both parties, and the timing of the 30 days notice and when that would expire. Also, he noted that it was the opinion of the residents that Mr. Danielson is not going to continue to develop the property even though he has said that this is what he intends. With that in mind, he asked the solicitor what would happen if completion of the improvements needed per the developer's agreement were not done by Mr. Danielson and exceeded the \$138,000 bond amount.

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Regarding the remaining vehicles and debris, Mr. Makel and Mr. Ivery said that the developer has 10 days to remove the items and then it will go to the magistrate. Mr. Makel agreed to contact the developer and give him notice.

In regard to the insurance bond, Mr. Makel said that the fall back position is to go against the bond, which is in the sum of \$138,000. In order to execute against the bond, he needs pictures of whatever improvements need to be completed as has already been determined by the Township engineer in preparation for the suit. Mr. Makel will have his secretary check the list prepared by Mr. DeiCas and contact Pete Guido of the Homeowner's Association to let him know what pictures need to be taken. Mr. Makel said that Mr. Danielson has not yet filed a response to the Notice of Default which would need to be done within a certain timeframe. Based on Mr. Makel's recollection, the project costs should not exceed that amount; however, Ms. Stover did point out that the project cost totaled \$157,000 in the list prepared by Mr. DeiCas which she had seen earlier.

Frank LaTorre, 7 Boyka Drive, commented in regard to Tomko and said he had been looking at the Township's Table of Authorized Uses from the website, which is a section of the Zoning Ordinance, and he has learned that a Contractor's Yard is not permitted in a C-2 zoning district. Also he said that the equipment has to be in the building. Also, he noted that the document shows that various other types of businesses are not permitted in a C-2 district such as a Landfill, Contractor's Yard, Mineral Removal, Manufacturing, etc... Mr. Ivery, Zoning Officer said that the opaque fence fulfills the requirement so a building is not necessary for the equipment. Also, he said that Mr. LaTorre's comments were out of context and did not take into consideration other information in the Zoning Ordinance and other definitions as they would relate to the Tomko business. The solicitor asked for a list of Mr. Latorre's issues.

Hal Breinig, 44 Finley Avenue, commented in regard to the dust created by the jack hammering at Tomko. He complained about the air quality and read from federal law in regard to allowable particulates and the dangers of being exposed to certain levels. He complained that there are residents in Boyka Plan who have respirators and breathing machines who are being impacted.

Mr. Breinig also commented in regard to the equipment at Tuscan Estates. Mr. Breinig wanted to know if equipment is being left on-site for legal reasons in a situation similar to the crane that was positioned on a property on Route 51 in Perryopolis for many years. Mr. Makel was unfamiliar with that situation.

Larry Spahr said the Township cannot shut down the business if there is no basis for it and informed residents that the attorney for Tomko is currently contesting zoning limitations which have been raised. Mr. Spahr and Mr. Makel assured those attending that, per the DEP, the business is in compliance. Also, it was noted by legal counsel that the Clean Air Act is enforced by the federal government and it is not the Township's jurisdiction to enforce that Act. Mr. Makel said that the state has air quality laws which somewhat mirror the federal laws and that he is unaware of any situation where a Township has enforced state law in regard to air

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quality. However, Mr. Makel offered to contact Representative Murphy's office to see if he knows who to contact at the EPA.

In regard to prior comments about the Trax well site, Mr. Spahr asked Mr. Gniadek and Mr. Baumgardner if either had signed any gas leases with, primarily Chesapeake, which would have been passed down to EQT. Both Mr. Gniadek and Mr. Baumgardner agreed that they had signed leases and have received money from that lease. However, both indicated that they were not fully aware of all the considerations involved when they entered into those agreements. Mr. Spahr said he met with some neighbors last Monday who said that the language in their \$50,000 contract is not a gag order and that the monetary basis of the contract had to do with negotiations between Mr. Baumgardner and EQT and a calculation of how much it would cost over "x" amount of time should a resident have to move to another residency temporarily. Mr. Baumgardner said that he had wanted to be moved to a comparable home for that time period. He said that EQT did not agree to that, but that this was how discussions started. Mr. Gniadek said that the contract has been examined by attorneys nationwide and all of them have said that it is a gag order. Mr. Makel noted that he looked at the contract and that it runs with the land, which means ad infinitum.

Mr. Spahr commented that if EQT or any other exploration company is operating within the stricture of the law, there is nothing that the Township can do to change anything.

Mr. Spahr also noted that Mr. Tullai's home sold for \$10K more than his asking price. The home is across the street from Mr. Baumgardner. Mr. Gniadek commented that the price had more to do with the buyer who had particular reasons for desiring the property.

Larry Spahr also noted that drilling activities cannot be locked out of an area and questioned the purpose of the referendum appearing about gas exploration on the ballot in Peter's Township and what that Township may have faced penalty-wise, legally, if it had not been voted down 5-1.

Departmental Reports

Police Report. Officer Loughner delivered the police report providing the monthly statistics.

Road Report: Mr. Albert Banahasky offered to deliver the report. Mr. Banahasky said that another panel of guard rail, in the road crew's opinion, would have been advisable on Grossetto Road. It was noted that Earl Danielson paid for the installation of the guard rail. Mr. Banahasky also reported that a hole by a tressel on Snee Road was repaired. In regard to salt, he reported that 700 tons of recently delivered salt had been used and, if use of older salt they had stored for four years was added to that number, then they would have used roughly 1600 tons. They have ordered some loads of salt which are now being delivered. He reported that the Township's quota this year for the Costars salt contract is at about 919 ton. He reported that complaints were minimal and thanked citizens for being patient.

Mr. Banahasky also wanted to make sure residents knew that if they are concerned about roads when an emergency vehicle is required during a snow event, that, when they call 911,

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they can notify the dispatcher who can get a hold of the operators in their trucks. One of the drivers will be diverted to salt the area where an emergency vehicle is headed.

Mr. Banahasky said that the road crew will now be inspecting for pot holes which are showing up here and there and will need to be patched, even though everyone must understand that the fill material is not long term and will work its way out of the pot holes.

A written report was also provided to the Board.

Motion to approve general fund bills in the sum of \$33,715.48 as presented by the Treasurer, subject to being true and correct.

Motion by Charles Trax, Second by Paul Chasko

Roll call vote: Parish-yes, abstaining from bills having to do with Finleyville Airport, Spahr-yes, Trax-yes, Chasko-yes, Frye-absent. Motion carried.

Mr. Makel said that he would call Mr. Young and Mr. Brizzi tomorrow in regard to the indemnification and easement documents which are required for the Airport Zoning District Tree Hazard Removal Project.

In regard to the independent testing being done of the EQT well site, the tests are still being finalized. Mr. Kopar will be providing additional information.

Pertaining to the Overlook Street sewage issue, Mr. DeiCas said that there have been some changes noticed on the documentation received by South Park which will need to be reviewed. Mr. Makel said that he had occasion to speak with Larry Gasparato. He informed the Board that Penn Vest and RUS are options for funding, as well as Commonwealth Financing Agency. Mr. Makel said a link to Commonwealth Financing Agency is on the PSATS website and requested that Judy Taylor send that link to the engineer.

Ms. Taylor will be locking down the EDU count which will be needed. She asked the Board how they wanted her to contact the necessary parties and gather the information. Mr. Makel suggested calling each party and inviting them to an informational meeting with the engineer and the supervisors and to have drawings available. Ms. Taylor said not all the customers have been identified yet; nonetheless, Mr. Makel advised her to call the meeting and go forward from there when the time comes. However, he said that, from the point of view of the DEP, the financial numbers being quoted are too high and they have to be in the \$80 ball park for DEP approval. If money is spent on design and DEP approval to move forward is not provided, then those funds are lost. Mr. Spahr said that the bottom line is that extra funding will need to be obtained as when [Representative Murpha](#)[Representative Murtha](#) helped to locate the funding necessary for the Elrama project. He commented that the Elrama area had had raw sewage in the streets and it still took nearly 20 years to get that project off the ground.

Mr. Parish provided information from the electrical contractor regarding light fixture replacements for the municipal building. He said that the replacement would run at about \$32 per fixture and some ceiling tile would also be required to block the openings which would otherwise be present due to the size difference between the old and new fixtures. The cost for the complete installation would be \$5,986.94 which would replace all the lights in the building.

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Motion to authorize Mr. Parish to contact Mr. Funtal to have him move forward on the light replacement in the sum of \$5,986.94.

Motion by Charles Trax, Second by Steve Parish

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

dan | **Motion** to extend the Waste Management project as of the proposal of February 20, 2015, at the rate of \$14.42 per month, to be billed quarterly, beginning in July for two years from July 01, 2015 through June 30, 2017.

Motion by Steve Parish, Second by Paul Chasko

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

A draft of the ordinance codification was sent to the Township from General Code. There are roughly about fifteen questions which will need to be addressed. The codification document is over 300 pages and will need to be reviewed for correctness and, by the solicitor, for the appropriate standardization of legal remedies. Mr. Spahr commented that this is a major effort of the Board to bring the ordinances up to date and has involved many workshops and reviews.

Motion to schedule and advertise a Workshop on Monday, March 30, 2015, at 6:00 p.m. for the purpose of reviewing the ordinance codification draft.

Motion by Steve Parish, Second by Paul Chasko

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

Motion to advertise for a new member of the Planning Commission

Motion by Steve Parish, Second by Paul Chasko

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

Mr. Tom Mellor and Mr. Parish requested to attend the Annual Penn Dot Outreach Meeting being held in a few weeks.

Motion to authorize Mr. Parish and Mr. Mellor to attend the Penn Dot Outreach Meeting to be held on March 26 at 12:30 p.m. on Route 519 in Eighty-Four, PA.

Motion by Paul Chasko, Second by Larry Spahr

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

Motion to approve attendance by Mr. Mellor and Mr. Parish at the Dirt, Gravel and Low Volume Road Maintenance Program for Environmentally Sensitive Maintenance (ESM) Training to be held Wednesday, May 6 and May 7, 2015.

Motion by Charles Trax, Second by Paul Chasko

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

The Treasurer noted that this training is required for the Township to be eligible to apply for program funds.

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Motion to table the Natural Gas Lease Agreement for review.

Motion by Steve Parish, Second by Paul Chasko

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

The Board informed the public that the lease agreement concerns properties owned by the Township including the municipal building property.

Motion to go to Executive Session at 8:38 p.m. to discuss union negotiations and litigation.

Motion by Steve Parish, Second by Paul Chasko

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

The solicitor said that they discussed matters involving personnel, union negotiations and litigation regarding Tuscany Estates.

The Board returned from Executive Session at 8:53 p.m.

Public Account

Mary Jo Yunkin commented that, at a corner near the intersection of Union Street and College Street, there is a large vehicle with a trailer that is obstructing visibility behind Gastonville school. Southwest Regional Police will look at the area.

Motion to adjourn at 8:56 p.m.

Motion by Steve Parish, Second by Paul Chasko

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


Debra A. Nigon, Secretary

