

Board Approved: May 26, 2015

Union Township Board of Supervisors
Regular Board Meeting
April 27, 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 and Ed Frye. 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 due to a reorganization at Chester Engineers.

Public Comment

Hal Breinig, 44 Finley Avenue, announced that he recently learned that if a resident is over 55 he/she can get a 10% discount from Waste Management on garbage pick-up if they contact Waste Management.

Frank LaTorre, 7 Boyka Drive, commented that he has spoken to 22 residents of the Boyka Plan in regard to Tomko construction, which statement was made in reaction to a comment he overheard last meeting in regard to many in the Boyka Plan not minding Tomko construction. Mr. Spahr said his comment had to do with residents he spoke with who said that the construction activities didn't bother them until nearer the end when the noise did become annoying. Mr. LaTorre said that Tomko was running equipment on Sunday, which he informed the Board was videotaped, and asked the Township to hold the business accountable.

Mr. Breinig, 44 Finley Avenue, commented that there had been an agreement between solicitors at the court hearing that was held where it was agreed that the business would not work on Sunday and would perform the work on Patterson Road. At a recent Board meeting, he said it was agreed that the Board would go through a dry run on the equipment, to which he was invited, and no dry run was held even though the business began working last week. He also said that Tomko is in violation of C-2, which the Zoning Officer, Mr. Harold Ivery, was asked to address. Mr. Breinig also asked whether the Board was going to re-consider the Dust Ordinance.

Both Mr. Breinig and Mr. LaTorre reported that the situation with the dust is better because the business has been watering down. However, they questioned where the water is running.

Relative to the C-2 Zoning, Mr. Ivery said he reviewed the paperwork and, per the Developer's Agreement which was approved when the business was first planned and built, approval was given as long as there was an opaque fence around the equipment.

The solicitor asked Mr. LaTorre and Mr. Breinig to contact his office. He will soon be speaking to Chad Wissinger, solicitor for Tomko.

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JoEllen Meek, 124 Viareggio Way, asked for a status on the diesel tank on Viareggio Way. Per Ms. Taylor, the Road Superintendent checked the tank and it is almost empty.

There was some discussion on the remaining vehicles and equipment at Tuscany Estates, as well as the fact that the area needs to be cleaned and children are playing on the tank.

It was noted by the Code Enforcement Officer that, since the area is private property, no one should be on the property. The solicitor will write the developer and give him until Friday to move the tank. Later in the meeting it was mentioned as a possibility to move the tank to the Nike Site for safety reasons. The solicitor will call DEP to ascertain liability should the tank leak.

Mr. Grieb commented that he checked with the magistrate's office and he needs to re-cite Mr. Danielson. In regard to the vehicles, the solicitor confirmed that under Ordinance 2009-04, the Township has the authority to tow the vehicles with ten days notice by certified and regular mail with posting of the vehicles being done and the appropriate pictures being taken with owner to pay towing plus 10%. It was noted that other Townships have been successful in towing vehicles although there have been associated aggravations and possible litigation. The Ordinance, 2009-04, does not apply to equipment. Mr. Ivery will send Maronda a letter in regard to the items belonging to Maronda Homes.

Keith Schanck, 160 Cinque Terra Place, requested information surrounding a moratorium on taps and asked whether there was any validity to there being a moratorium and whether or not that would restrict continuing development at Tuscany Estates. Mr. Spahr explained that Union Township took the lead in fighting to have taps released a couple of years ago. Clairton Municipal Authority is in the middle of expanding their plant to address the issue with capacity and taps. The DEP did lift the moratorium. The sewer authority continues to release a limited number of taps each year which are then purchased by developers and contractors. It was not known at the time of the meeting whether Mr. Danielson had purchased any unused taps.

Kristin Marcy, candidate for the Clerk of Courts, introduced herself and said that she had been working in the Clerk of Court's office for 17 years. She explained some of what is done in the Clerk of Courts office, asked for questions, and requested the vote of residents.

Motion to approve the Minutes of the March 23, 2015, Regular Board Meeting, as presented by the Secretary, subject to being true and correct.

Motion by Paul Chasko, Second by Ed Frye

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

Motion to approve the Minutes of the March 30, 2015, Workshop, as presented by the Secretary, 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.

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Motion to approve the Minutes of the April 13, 2015, Regular Board Meeting as presented by the Secretary, subject to being true and correct, with revision.

Motion by Steve Parish, Second by Paul Chasko

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

The secretary will revise propane tank to diesel tank in the Minutes of April 13.

Motion to approve Payroll #7 dated March 27, 2015 in the sum of \$12,735.03 as presented by the Treasurer, subject to being true and correct.

Motion by Steve Parish, Second by Ed Frye

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

Motion to approve Payroll #8 dated April 10, in the sum of \$10,030.59 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 #9 dated April 24, in the sum of \$11,076.28 as presented by the Treasurer, subject to being true and correct.

Motion by Steve Parish, Second by Ed Frye

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

Motion to approve general fund bills in the sum of \$17,104.27, as of April 27, 2015, 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

Departmental reports were discussed as the Board went through the Agenda.

Mr. Chasko said that tree removal by Sidelines Tree Service on properties adjacent to Finleyville Airport was 80% complete. During a January 22nd meeting with the solicitor and Board member(s), acting for his mother, DJ Fincham said he wanted the timber to sell. Therefore, the RFP specified that trees on the Fincham property were to be left on-site. However, Ms. Fincham, after seeing the downed trees, wants them to be removed. The actual owner of the property is believed to be Ms. Fincham. Mr. Makel was asked to provide verification. If Sidelines has to remove the trees in accordance with the request of the property owner, this will be additional scope and may lead to a change order. Mr. Chasko believes he saw someone removing the trees. Mr. Makel asked him to update him on the status when more is known.

Mr. Makel made note of another owner that had an issue signing the necessary documents and did not have his trees which are in violation of the Airport Zoning Ordinance cut down. Three trees in violation are located on this owner's property. Mr. Chasko reported that the latest aviation bureau report identified these same owner's trees again. Mr. Makel said the

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owner can be cited and noted that condemnation of the property is time consuming and expensive.

Mr. Chasko reminded the Board that, per the contract, the contractor was to be paid in stages. At this point, Sidelines Tree Service is well beyond 50% complete.

Motion to pay to Sidelines Tree Service 50% of contract price at a cost of \$6,550.

Motion by Paul Chasko, Second by Charles Trax

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

There was discussion about the permit which was believed to be required prior to the drilling of a gas well on the Parish property which has continued to be identified in violation during the yearly inspection by the PennDot Bureau of Aviation. This issue had been researched by the solicitor who contacted Mr. Logan. He learned that there should have been two permits filed, one with the Aviation Bureau and one with the FAA. A permit had been filed with the FAA; however no permit, Form 746, was ever filed with PennDot Aviation Bureau. The FAA determined that the well was no hazard if the conditions in the FAA advisory circular were met. The solicitor also mentioned that the permit expired in 2010 and that this is an open question. Mr. Logan informed Mr. Makel that the FAA determined that the height of the well did not infringe on air space and has now notified Penn Dot Aviation Bureau who will accept their determination. Mr. Spahr asked that the solicitor verify that the Board of Supervisors will not be held liable should an accident occur at the site involving the gas well which is off the end of the runway. Mr. Makel is to contact Mr. John Melville in Harrisburg who is with the Department of Aviation. He will subsequently provide the Board with a legal opinion.

Motion to Adopt Sewage Documentation Ordinance No. 01-2015.

Motion by Ed Frye, Second by Paul Chasko

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

One letter of interest was received for the Planning Commission Member opening. No letters were received for Zoning Hearing Board Alternate or for Recreation Board Members as a result of the advertisement in the Observer-Reporter.

Motion to appoint Linda Evans-Boren to the Planning Commission for a term of four years retroactive to March 1, 2015.

Motion by Ed Frye, Second by Paul Chasko

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

The Board requested that meeting attendees consider submitting their name for the other open positions. No one at the meeting was willing to fill any of the openings. Pete Guido agreed to mention the positions at the next Home Owners Association Meeting of Tuscany Estates. Mr. Spahr explained that the ZHB is a quasi-official body which evaluates requests for variances to determine if a given request is appropriate and reasonable. The request is evaluated against the Zoning Ordinance with the assistance of an appointed attorney.

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Motion to re-advertise for the ZHB Alternate and Recreation Board Members (3 needed).
 Motion by Steve Parish, Second by Paul Chasko
 Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

There was discussion regarding the necessity of appointing a Township engineer as soon as possible due to pressing matters such as Tomko site planning and an EQT subdivision which are both being delayed. Three options were presented to the Board: (A) to appoint Carl DeiCas who was subsequently employed by KLH Engineers, (B) to stay with Chester Engineers which will assign another engineer to the Township, and (C) to hire Harshman Engineers, CE, as recommended by Municipal Consulting Service. Mr. Makel stated that he had requested a copy of Union Township files from Chester Engineers and has not heard back from them. Going forward, he will prepare written agreements to be signed between the appointed engineer and the Township. It was also explained that many Townships do have an alternate engineer just in case there is an issue or conflict of interest. Mr. Spahr requested an executive session to discuss the options.

Motion to go to Executive Session for personnel issues at 8:27 p.m.
 Motion by Steve Parish, Second by Paul Chasko
 Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

The Board returned from Executive Session at 8:35 p.m. The Board discussed the appointment of a new engineer.

Motion to appoint Carl DeiCas and his firm of KLH Engineers, Inc., subject to a written agreement being executed with the Township, wherein the Township owns all documents prepared therein, and which indemnifies the Township for any negligent acts, names two additional engineers from KLH as a back-up, and other terms as prepared by the solicitor in an agreement; with the term thereof being subject to the will of the Board.
 Motion by Paul Chasko, Second by Charles Trax
 Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Motion to hire Harshman Engineers, CE, as a conflict engineer, subject to a written agreement being executed with the Township, wherein the Township owns all documents prepared therein, and which indemnifies the Township for any negligent acts, names two additional engineers from Harshman Engineers as a back-up, and other terms as prepared by the solicitor in an agreement; with the term thereof being subject to the will of the Board.
 Motion by Ed Frye, Second by Paul Chasko
 Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

Mr. Makel agreed to notify the engineers. The agreement he will prepare will include the rates of pay.

Mr. Makel informed the public that Harshman Engineers must represent the Township with Tomko due to the fact that Tomko is using KLH Engineers in planning their latest construction project which could be a conflict of interest.

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Also, in regard to Tomko construction, the solicitor said that it was discussed that a member of the Planning Commission has made prejudicial comments in the past regarding Tomko that could lead to litigation should he be involved in an official capacity as a voting member of the Planning Commission. Due to these comments, he should not take part in an official capacity in any Planning Commission Meetings involving Tomko construction.

Regarding Elrama Sewerage billing, Mr. Frye said that billing will be discussed at a West Elizabeth Sewer Authority meeting tonight. He will inform the Board what was determined.

Regarding the McChain Road slide, the solicitor noted that it appeared more work was needed which may involve a gabion wall and jersey barriers and possibly a ditch. Also the culvert needs a new metal grate which is missing. Mr. Makel suggested that it may be possible to have the Road Superintendent or crew do some of the work.

Pertaining to the Pumpkin Center slide, Mr. Parish and Mr. Mellor met with representatives from Teppco who said that someone dumped dirt on the right-of-way and should be responsible for cleaning it up. Mr. Parish said research is necessary to see whether or not a grading permit was issued.

Motion to authorize attendance by any public official or employee to a Right-to-Know Law Training Session to be held in Washington County on June 24, 2015, at 2:00 p.m., at a cost of \$30 per individual.

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 was contacted by people in the Boyka Plan who requested a No Parking sign be erected on old Route 88 because there is a pickup truck with an approximately 20 foot trailer parked on the old brick road. It was noted that, per the vehicle code, there must be an ordinance which specifies on what street(s) the sign(s) are to be placed. The code is very specific as to how these signs must be positioned. The Board will consider the issue.

Mr. Snee, a resident in attendance, noticed that the municipal building flag is in bad shape. Ms. Taylor will contact Rep. Saccone's office relative to obtaining a new flag.

Motion to go to Executive Session at 9:04 p.m.

Motion by Paul Chasko, Second by Ed Frye

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

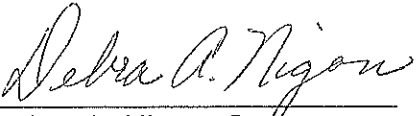
The Board returned at 9:20 p.m. The solicitor said they discussed road crew employees and possible litigation involving EQT.

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Motion to adjourn at 9:25 p.m.

Motion by Ed Frye, Second by Steve Parish

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



Debra A. Nigon, Secretary

