

Board Approved: June 22, 2015 with revision as noted

Union Township Board of Supervisors  
Regular Board Meeting  
May 26, 2015

The Board of Supervisors Meeting was called to order by Chairperson Larry Spahr at 7:03 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, Chris Furman—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.

Chairperson, Larry Spahr, acknowledged gratitude to all veterans in honor of the Memorial Day holiday celebrated yesterday.

Public Comment

Emma Boyd, 450 4<sup>th</sup> Avenue, New Eagle, spoke regarding her property on Nasal Lane and the potential loss of access to that land should neighbor, Dominick Leccia, 54 Nasal Lane, close the right-of-way as he has notified property owners he will do by August 31, 2015. Should this access be closed, Ms. Boyd said that some owners will lose access to their property altogether. The road has been in existence since the 1700's and the deed to the property shows the road. The road was not adopted as a Township Road. It is private property and a private road. She informed the Board that she has gone to the magistrate and Judge Ellis informed her that the Township needs to send Mr. Leccia a letter that he cannot close off the road to emergency services. The advice of the solicitor, Chris Furman, was that the residents using that access road should join together to hire an attorney who can file a Declaratory Judgment action on their behalf to obtain a Court Order from the Court of Common Pleas for the road to be kept open. The Board could authorize the solicitor to write the letter Judge Ellis has presumably requested; however, Mr. Furman, stressed that a letter from the Township would not carry the weight of a Court Order from the Court of Common Pleas. There was also a question as to whether the Township had any standing to act in their behalf. It was noted by the Board that the Township has occasionally plowed this private road in very treacherous weather for the health and safety of the residents. Mr. Furman was asked to research the matter in terms of the Township's standing for the June 8, 2015, meeting while the residents were asked to investigate hiring a lawyer for the Declaratory Judgment.

**Motion** to authorize the solicitor to research the matter of the closing of Nasal Lane by a private citizen in regard to whether the Township has any standing to act on behalf of residents.

Motion by Ed Frye, Second by Paul Chasko

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

Pat McHugh, 3496 Orchard Avenue, complained that part of Orchard Avenue in the Boyd Plan and other roads near it have been maintained but not the section of road where he resides nor other sections of other roads he identified to the Board. Mr. Parish said that the section of

Orchard Avenue in question was never accepted, recorded and adopted into the Township road system. Therefore, it is a private right-of-way. Mr. Spahr added that other roads were brought up to specifications and adopted into the Township road system in the past; however, in order for this to occur, the property owners had to relinquish a certain width of their frontage so that the road would meet the legal requirements necessary to be adopted. Mr. Spahr provided the gentleman with the name of the attorney who represented the other party(ies) who had a similar issue. A road has to be 33 feet wide in order to be adopted. In terms of this section of Orchard, the resident said a survey measured the road at 40 foot wide. The resident has lived at the address 28 years.

Other information about these roads or sections of road which were never adopted into the road system were shared by the Board and building inspector / zoning officer. If a road is laid out but never adopted into the Township road system, the owners on either side of the road own up to the middle of the road although they cannot legally do anything with that property because it is a right-a-way. If an owner would want to take the land back being used for the right-of-way, they would have to ask the Township to adopt a Resolution to Vacate the Road. Mr. Ivery also noted that it is the adjoining property owners who would be responsible for the funding of everything necessary to bring the road up to PennDot specifications so that it could be adopted. The PennDot specifications can be obtained from the Township engineer.

Mr. Furman said that residents should attend a public meeting if they believe a road needs to be surfaced or maintained to make the Township aware of the issue.

Sharon Guballa, 6201 Brownsville Road Extension, complained about the white dust from Tomko which settled on her daughter's car earlier today while it was parked at Giant Eagle where her daughter works. Ms. Guballa said she drove the car over to Tomko upon seeing the dust and was directed to Tomko solicitor, Chad Wissinger, regarding her complaint that her daughter had just spent time over the weekend cleaning the vehicle only to have it covered with the white dusty grime. She was very dissatisfied by the response received which she believed challenged her to prove the dust was from the business. She said that she was also informed that hers was the first complaint. She reported that she drove the car to the municipal building and requested that the Secretary and Treasurer look at the condition of the vehicle. She asked the Board if they would also like to view the vehicle. Mr. Furman and Mr. Ivery left the meeting to look at the dust on the vehicle.

The report was that the vehicle was very much covered with a white coating from the dust combined with water which may have been on the vehicle from rain earlier in the day. Mr. Spahr said that dust was supposed to be suppressed by hosing down as was discussed and agreed to by Tomko. Mr. Furman commented that the Township does not have a dust ordinance; however, it was requested to keep dust down as part of an agreement with the business. The business created a watering station for this purpose which, based on prior reports, had been being used up until this incident. Mr. Ivery confirmed that, if the watering station was being used today, the car would not be in its current condition. Mr. Furman suggested the residents contact the EPA in regard to the company's air quality permit which is regulated by the EPA and requires particulates be kept to a certain level. Also, the incident could be considered a trespass by Giant Eagle. The solicitor will contact Tomko tomorrow.

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Barbara Stover, 135 Viareggio Way, addressed the Board in regard to the honoring of Veterans during the Memorial Day holiday next year. She said that this year she attended a program where she heard the stories of veterans who tearfully recalled meaningful observances prioritized in years past during the Memorial Day holiday. She was also deeply moved regarding one gentleman's Memorial Day recollection from a time near the Vietnam War where he remembered being in a grocery store as the shoppers stood still and observed a moment of silence as the flag was raised at noon. Ms. Stover asked the Board to consider sending out a letter to all Union Township residents requesting that each pause and reflect in honor of the veterans at 12 noon. She would be willing to write the letter and help with that endeavor. Mr. Spahr asked that Ms. Stover come to the Board around that time of year next year in this regard. Also, he suggested contacting the American Legion regarding their participation in encouraging those of Union Township to not forget the real purpose of the holiday.

Pete Guido, 127 Viarregio Way, said he has not heard from any member of the Township in regard to communications with the developer and Township actions. He reported that Maronda did move one ~~port-a-party~~ port-a-potty. He was informed that there is a developer's meeting with Quaker Engineering on June 11, 2015, at 3:00 p.m. Mr. Guido asked to be part of the meeting. Mr. Furman informed attendees that the insurance company was put on notice that the Township intends to execute on the bond and is following the necessary steps in that regard. The bond expires as of June 28. Mr. Furman informed residents that the Township could not do any further development in Tuscany Estates by executing against the bond, they could only bring the roads up to PennDot specifications.

Mr. Spahr commented about a business insert in the Post Gazette advertising that they are building in the area. Also, when Mr. Spahr met with Mr. Danielson, he said that he did want to continue that development.

Mr. Guido asked the Township whether they could use the Board Room on Wednesday, June 3, 2015 at 6:30 p.m. for a meeting of the HOA Board.

**Motion** to authorize Tuscany HOA to use the Board Room on Wednesday, June 3, 2015 at 6:30 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.

Keith Schanck, 160 Cinque Terra Place, Tuscany Estates, commented on the code violations which exist at Tuscany Estates and asked about the direction the code enforcement officer received to cite the developer for violations relating to the vehicles on the premises. He informed the Board that the HOA is trying to enforce their own by-laws and they have boats and trailers in the development which have expired registrations. Mr. Furman pointed out that, in terms of abandoned vehicles ordinances and enforcement, regardless of any municipal wording in its ordinance, the vehicles must be established to be a nuisance in fact and that the vehicles having no registration or inspection is not significant enough to establish the vehicle as a nuisance. The vehicle must be a dangerous condition per rulings by the PA Supreme Court who has not ruled in favor when other issues constituting a nuisance are not present. Mr. Furman said that, as solicitor, he will only advise the Township to pursue abandoned

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vehicle violations as far as the Ordinance Union Township has on file has been held constitutional by the PA Supreme Court. Mr. Ivery asked Mr. Schanck to visit him in his office on a Monday or Thursday evening to go over the issues.

Mr. Schanck also asked for assistance from the Township to install speed enforcement signs. He informed the Board that the HOA could pay for the signs on their own and only needed advice from the Township road crew on how they should be installed to meet code so that they are installed correctly. Mr. Furman directed the HOA to decide what is needed, consult with the road crew on cost, and put a package together for consideration by the Township.

Mr. Parish added that there is a Township Ordinance which states that the speed limit is 25 mph on all streets in the Township. The SWRPD officer in attendance at the meeting informed the Board that, since the roads are not Township Roads, in order for them to be able to issue a citation, a sign would need to be erected containing the pertinent Ordinance No. so that any citation could be issued as an Ordinance Violation since the roads are private roads.

**Motion** to approve the Minutes of the April 27, 2015, Regular Board Meeting, 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.

**Motion** to approve the Minutes of the May 11, 2015, Regular Board Meeting 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-abstain. Motion carried.

**Motion** to approve Payroll #10 dated May 8, 2015, in the sum of \$15614.39 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 #11 dated May 22, 2015, in the sum of \$11,158.87 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 \$51,685.38, as of May 26, 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

The Board reviewed departmental reports as they went through the meeting agenda.

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The Gas and Diesel bids were opened.

	Gasoline			Diesel			Bid Bond Rcd
Supplier	Gas Bid per Unit	Per 7500 gallons	Differential	Diesel Bid Unit	Per 3500 gallons	Differential	
Glassmere Fuel	\$2.1388	\$16,041.00	\$0.0999	\$2.1625	\$7,568.40	\$0.0999	X
Coen Oil	\$2.0389	\$2.1239/gal (\$15,929.25)	\$0.0850	\$2.0680	2.1539/gal (\$7,538.65)	\$0.0850	X

**Motion** to award the Gas and Diesel bid to Coen at a differential of \$0.0850 for 2015.

Motion by Steve Parish, Second by Ed Frye

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

Paul Chasko updated the Board regarding the Airport Tree Hazard Removal project. Mr. Chasko said the contractor has not received final payment and the Township had sent a letter to the contractor with a punch list and has not yet heard back. The contractor will need to be contacted.

The park inspection was discussed. Mr. Spahr asked for a report from the Road Superintendent with a side-by-side list of the deficiencies which were identified in the inspection with a comparable list of what has been completed and repaired by the crew. Ms. Taylor noted that she has learned that in order to remove equipment that had been purchased with DCNR grant funds, the Township must send an email and picture to the DCNR requesting approval to remove the equipment.

Mr. Ivery was asked to provide an update on Tomko construction. He reported that a pre-application meeting had taken place. Also, he has spoken with Mr. Makel and the engineer concerning an NPDES permit Tomko should have from the DEP for the whole site which Tomko does not currently have. The area and parcels composing the construction site is at question. However, if Tomko still wants to attend the Planning Commission Meeting, for informational purposes only, simply to discuss the plans, that would be possible; however, they must waive the Township's time to respond should they choose to attend because the Township cannot move forward until the items that are open with the DEP are squared away as it could open the Township to extensive litigation. The developer's agreement can be discussed at the May 28 Planning Commission Meeting, assuming they still want to attend. Mr. Furman said that he sent correspondence to Mr. Wissinger about this issue today informing Tomko that the Planning Commission will make the determination that the application is incomplete due to the open DEP soil conservation issues should no waiver of the Township's time to respond be forthcoming.

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Mr. Furman said that the developer's agreement which Union Township requested is based on a boilerplate document which he received back from Tomko and has distributed to Municipal Consulting Services. He will provide each member of the Board with a copy tonight.

Mr. Parish noted that when he was travelling Friday up Route 88, he observed people working to tie the water from Tomko that had been running down onto the road to the catch basin so that it will not run onto Route 88. When he spoke to two gentleman who were working at the location, they informed him that they will be seeding also.

**Motion** to authorize the solicitor to advise Tomko that their application will not be considered until such time as they are compliant with DEP.

Motion by Paul Chasko, Second by Charles Trax

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

Mr. Parish reported that he and Mr. DeiCas and Mr. Mellor reviewed the slides. Mr. DeiCas will give a report to the Board but he is not in attendance to review the issues tonight.

Mr. Barna has contacted the Township relative to sewage issues surrounding his property causing damage to his driveway. Mr. Frye said that, when the Supervisors met with the DEP on the issue, the Township was requested to formulate a long range plan on how to address the whole area from up past the Nike site down to Gilmore Road where there are multiple malfunctions. Ms. Shade said that WCSC should test all the houses in that area. Ms. Taylor and Mr. Grieb have made a map of the homes to be tested. The long range plan would need to be determined and a couple of the options were briefly discussed.

Until such time as a long-range plan could be instituted, the tanks up hill from Mr. Barna should be tested so that the Township can enforce its Ordinance. Mr. Furman informed the Board that once any violations are found, the individual(s) can be cited and taken to the magistrate and will most likely be fined. After that is done, the Township's responsibility ends. The Township does not have to take the responsibility of repairing the failing tanks.

The WESA billing proposal was held in abeyance for Executive Session as a contractual issue.

Mr. Hoey contacted the Township requesting a hardship deduction for sewage. A hardship deduction is not in the Elrama Sewerage System Rules and Regulations. Ms. Taylor said that, since it is unaddressed in the rules and regulations, the Township would need to add a provision should they desire to grant a hardship deduction. If they decide to do so, the Board needs to decide whether the hardship deduction would only be for burned homes or for what type of hardships and when the hardship period would end, and so forth.

The Board asked for a status of the property. Mr. Parish remarked that an area of brush needs to be cut back further, and along the fence. Also there is garbage from the restoration which must be removed. Mr. Ivery informed the Board that he meets with Mr. Hoey every couple weeks at which time additional items are assigned for him to accomplish. He reported that the owner does make headway on the items he has been requested to complete. For instance, there are tires that were moved. The drywall is being finished and all framing is up and

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electrical is operational. The truck has also been licensed. Mr. Frye asked that Mr. Hoey also be reminded that he cannot burn construction materials such as home wrap and dry wall, tires and so forth.

It was confirmed that all reports from PSI regarding the EQT Trax Farm well pad have been received.

**Motion** to make final payment to PSI for independent testing services in the sum of \$8,495.00. Motion by Ed Frye, Second by Paul Chasko  
Roll call vote: Parish-yes, Spahr-yes, Trax-abstain, Chasko-yes, Frye-yes. Motion carried.

In regard to the 2015 Paving Project, Mr. DeiCas will review with the Board the project being considered and the Board can vote to advertise the project at the next meeting. Steve Parish said he spoke to Rick Skovensky and will let him know when the project is together so that he can come down and review it. Aber Road was being considered as an alternate. Other roads considered to require paving are McClelland, Kirchner, and McChain, as well as all of Lobbs Run Road all the way to the Jefferson Line.

In regard to the EQT EET Open House, Mr. Spahr said, though he did not attend, he did request and received information about that project and heard that the meeting went very well.

Mr. Martik requested to purchase property from the Township on the opposite side of the right-of-way at Brownsville Park. However, per the research done by Ms. Taylor, in order for the Township to meet DCNR requirements, there would have to be land of equal value placed into recreational use. A swap of land in which the municipality receives land of the same recreational value as that which they would be giving up would be acceptable but the land would have to also be contiguous and usable by the public. If you have a proposal, the DCNR can be requested to review what it is that you would like to do. Should it be deemed acceptable, the land would need to be advertised for bid. Larry Spahr asked Ms. Taylor to see if anyone from DCNR is available to come and see the land to advise the Township how it might be able to make this work.

**Motion** to transfer from the Local Share Fund \$25,826.17 for garage finishing costs. Motion by Steve Parish, Second by Paul Chasko  
Roll call vote: Parish-yes, Spahr-yes, Trax-yes, Chasko-yes, Frye-yes. Motion carried.

An announcement was made of the Open House for Jefferson Hills Ambulance Service, which will be held Saturday, June 6, 2015, from 1p.m. to 4p.m. with various activities being scheduled and food being served. The EMTs will be doing blood pressure and other tests as well as conducting training and demonstration of compression-only CPR. The Lifeguard Pilot Program will also be presented and explained and residents will be given opportunity to sign-up. The in-service work of Jefferson Hills Ambulance from the garage addition will begin the day of the open house. Thereafter, the addition will be staffed 24/7 by Jefferson Hills Ambulance reducing response time in Union Township. Once operational, response time will be equal no matter where in the Township the ambulance is called.

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Applications for grant funding were discussed. Grant Funds are available for Act 537 Plans which is a detailed sewerage plan which is generally contained in a 3" thick binder(s) of various information required by the DEP. The Treasurer was authorized to apply for funding as well as for other grant funding for other purposes.

**Motion** to apply for Act 537 Plan Grants.

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 apply for grant money for Flood Mitigation and Acid Rain Drainage.

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 apply for the LED Light Rebate Program.

Motion by Ed Frye, Second by Paul Chasko

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

Larry Spahr said that they would discuss litigation and contractual items involving WESA billing of Elrama sewerage customers in Executive Session.

**Motion** to go to Executive Session at 9:30 p.m. to discuss litigation

Motion by Steve Parish, Second by Charles Trax

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

A representative from WESA, Scott Pearson, attended the meeting and went into Executive Session along with the younger Ed Frye who is representative to the WESA Board. Mr. Pearson and Mr. Frye left Executive Session at 9:40 p.m.

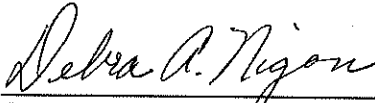
The Board returned from Executive Session at 9:57 p.m.

The solicitor said that they discussed matters involving potential and existing litigation.

**Motion** to adjourn at 9:57 p.m.

Motion by Steve Parish, Second by Charles Trax

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

  
Debra A. Nigon, Secretary