

Board Approved: July 25, 2016

Union Township Board of Supervisors
Regular Board Meeting
July 11, 2016

The Board of Supervisors Meeting was called to order by Chairperson Larry Spahr at 7:08 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, Gary Sweat—Solicitor, James Harshman—Township Engineer, Judy Taylor—Treasurer, Debra Nigon—Secretary, Harold Ivery—Building Code Official, and Peter Grieb—Code Enforcement Officer.

Mr. Spahr called for a moment of silence in honor of the police officers recently ambushed by a sniper in Texas.

Public Comment

George Powell, 4297 Finleyville-Elrama Road, made a general comment to the Board suggesting that they check their attitudes at the door as his opinion was that they spend too much time bickering.

Pete Guido, 125 Viareggio, requested an update on the Tuscany Estates Matter as to whether a construction schedule was provided and whether the developer's agreement had been updated. Jamie Harshman, Township Engineer, reported that the DEP erosion and sedimentation permit issue is still unresolved. Also, he said that the developer informed him, if he is interpreting him correctly, that he has been on hold due to market conditions and financial reasons. In regard to construction, the developer was informed that there are no approvals until he meets the conditions set by the Township.

Mr. Harshman has not confirmed the necessary bond amount; although, he reported that it was correct for that time, but that he is not yet done determining what the amount should be going forward. He received documents from the developer but not a schedule of bond reductions. Peter Grieb reported that the initial bond amount was \$1 million dollars which was later reduced. Mr. Harshman informed those present that the intent of an infrastructure bond is to provide protection to the Township, enabling it to take over the infrastructure should development not continue. Mr. Harshman reported that, if the road is starting to show wear, that would currently be the responsibility of the developer. He has noticed some cracking but, for the most part, Mr. Harshman reported that the road seems to be okay. It was noted by Mr. Grieb that Earl Danielson communicated that he plans a paving project in August.

Another resident of the development commented that her concern was that the developer will walk away after the community house and pool are completed. Mr. Harshman's opinion was that, were this to happen, the infrastructure of the development could be completed leaving the development in good shape, though not in perfect shape.

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There were questions about whether handicap access was required at the pool since the handicap access rail is not yet installed. Since the community pool is considered a private pool, access is not required. Mr. Danielson is to call the Township when the last few things that are needed at the pool are done.

The new solicitor's comments were that, for Phase 8 approval, the bond would need to be increased. Also, in his experience, as each phase is completed, the Township takes over the roads after they meet PennDot specifications; therefore, he did not understand why the initial \$1 million bond was released without that having been done. In regard to that issue, Mr. Spahr later commented that it was decided that the roads would not be taken over by the Township at the end of each phase due to the fact that, in completing the other phases, the developer would need to drive the trucks and heavy equipment necessary for construction over those same roads.

Mr. Sweat advised the HOA to seek their own legal counsel as it would pertain to breach of agreement by the developer with the HOA property owners. In response to an inquiry as to whether the pool and community house have been turned over to them, Mr. Guido said that the pool and community house have not yet been turned over to the HOA; however, they are to be turned over when work is complete. Mr. Sweat also advised the HOA to see if they can get gas rights transferred as these rights could end up being a source of income for the HOA.

Paul Owens, 6314 Jack Street, congratulated all of the Board members. He reported a problem on his street with water running down the hill and being detoured through a neighbor's pipe into his front yard flooding the porch. At one time, the Road Superintendent fixed the problem; however, the pipe going under the road is in bad condition and there is a hole in the top of the pipe. He also later reported that water runs off his own property down to a neighbor's property which caused the neighbor to erect a barrier to divert the flow. His opinion is that the Township should be responsible instead of the residents for keeping the pipe repaired. It was noted that the water company is currently planning work on his road as they have come and made markings on the road. Mr. Owens said the markings run well into his property. He has not been able to get any information from the water company as to what they are planning and whether the pipe will be fixed. The Road Superintendent said that he is not sure whose right-of-way the pipe lies in, but that the leaking pipe is an old driveway pipe. It appears that the water company had a leak in a line somewhere above. Mr. Spahr suggested that the Township may be able to contact the water company and request that, while they are out there doing their repairs, they put in a new pipe. Tom Mellor was requested to call the water company tomorrow.

Hal Breinig, 44 Finley Avenue, commented that, in attending meetings for years, his opinion was that certain factions don't want growth and made reference to underhanded tactics which he did not detail or elaborate upon. He provided an opinion that comments be made in an orderly fashion and complained about people talking in the back of the room. He suggested Robert's Rules be applied and that personalities be left outside. He also commented about the playgrounds that will be leaving the area when the school leaves. Also he commented that, in the past, the burden of the bulk of the school taxes fell on Union Township residents who were paying 72% of the school taxes.

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Mr. Spahr confirmed that Region 3 paid the majority of taxes for the schools. In regard to Robert's Rules of Order, he noted that they were adopted by the Township in the past and govern the order of meetings. However, he stated that public comment is governed by the Sunshine Act and governing bodies have been cautioned about efforts to curtail public comment.

Frank LaTorre, 7 Boyka Drive, said he would like the Board to move forward. Also he commented upon a situation with junk cars on Rankintown Road. Mr. Ivery reported that the owners of three cars were sent notices. The ones that responded corrected the problems. Mr. Ivery also reported that there are some remaining vehicles which still need to be addressed. Mr. Grieb also informed Mr. LaTorre that the Township cannot move a vehicle from private property if it does not meet the standards that would classify the vehicle as "junk" by law, which do not necessarily have to do with the attractiveness of the vehicle. Mr. Ivery will follow up on a Galaxy and a van that were noted as being issues.

Ms. Mary Parish, 47 Airport Road, commented on noise, lights and activity she has been noticing originating from the top of Union Street. The officer was asked to check on the situation.

The Road Superintendent asked for questions on his written report. He noted that drainage work was completed on McChain Road. There will be a preconstruction meeting with Morgan Excavating regarding the 2016 paving project on July 19. Mr. Harshman informed the Board that, since Harshman CE group was appointed in mid-stream of the paving project, materials may need to be measured. Also, it was noted that 80 feet of the entrance to the park was paved by Lane Construction, contractor for the state, at no cost to the Township. Mr. Mellor noted that there is a garbage truck that goes down to the park to empty the dumpster. In order to limit heavy traffic on the road, perhaps not as big of a dumpster is needed or it should be moved to the upper parking lot.

Pursuant with the Board's approval of renaming the park at the last meeting, Mr. Castor of the American Legion Post 613 obtained proofs showing several options for the new sign to be placed at the park entrance. The American Legion would purchase the sign at \$263 and would pay the additional cost of the necessary posts, but asked for the Board to pick up the cost for printing the second side of the sign which would be \$100. Also, Mr. Castor asked for the Board's feedback regarding erection of a flag pole at the park.

Motion to approve the sign sample in blue background with yellow foreground, pay for printing of the second side in the sum of \$100 and help with installation.

Motion by Deborah Sargent, Second by Charles Trax

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

The Secretary was asked to get a specific proposal on the flag pole from Mr. Castor for Board consideration.

Scott Kircher, Officer-in-Charge, read the police report statistics. Also, he reported that the new Thursday evening patrol at the Beach House has been started and has worked out well. Larry Spahr informed the Board that a suicide was committed at Brownsville Park. Scott

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Kircher reported that the individual called the police and told them of her intentions. South Park Township and Union Township showed up on the scene. Whenever she was asked to show her hands, she shot herself. Her suicide note said her plan was to commit the suicide in front of the police.

In regard to the PennDot request to detour traffic on Patterson Road, Mr. Harshman will continue to work with Walsh towards an equitable arrangement. When agreeable terms are reached, he was directed by Mr. Spahr to turn the terms over to Gary Sweat to put into an agreement. The trestle crossing on Patterson Road is 17 feet high.

In terms of the Finleyville Airport indemnification agreement, Mr. Sweat added a paragraph denoting that the work must be done to the satisfaction of the zoning officer. The indemnification agreement grants Finleyville Airport an easement on the property of the owner for removal of trees and obligates the Township in no way whatsoever.

Motion to accept a Temporary Easement, Indemnification and Release Agreement as revised by Mr. Sweat pertaining to removal of trees by Finleyville Airport per an agreement with certain property owners.

Motion by Paul Chasko, Second by Deborah Sargent

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

Mr. Mellor said the placement of stone on Railroad Street which is necessary due to erosion caused by the railroad's recent project which involved clearing of the banks would include about 40 tons of #5 stone at an approximate cost of \$1000 to \$1200 dollars.

Motion to authorize the Township to make repairs to stabilize Railroad Street with stone in the sum of approximately \$1000 to \$1200 dollars.

Motion by Charles Trax, Second by Heather Daerr

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

The Overlook Street sewerage project was discussed. Having the customers who were illegally tapped pay for the years they were not billed for usage is not in the agreement. Cost of the project is estimated by Mr. Harshman to be \$400,000 to \$500,000 for 26 EDU's. Ms. Taylor communicated that, per her discussion with Daniel Mikesic who replaced Mr. Gasparato as PennVest Project Specialist for the Southwest Region, we do not have to close out the Penn Vest loan for the Elrama sewerage system to obtain funding for the Overlook Street Sewerage Project; however, the remaining funds, which were retained for possible pipe installation in Jefferson Hills Borough could not have been used since they would not have been in the original project scope of the Elrama Sewerage Project. Also, the pipe installation would have only been necessary if the Borough chose to go to CMA instead of WESA, which did not occur. The remaining PennVest Elrama Sewerage System loan and grant funds is in the amount of \$143,551.93 of which \$43,340.53 is grant.

Motion to close out the existing PennVest loan with resultant loss of the remaining funds.

Motion by Paul Chasko, Second by Deborah Sargent

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

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Motion to accept and advertise the Cypher & Cypher Audit of 2015.

Motion by Heather Daerr, Second by Deborah Sargent

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

Mr. Spahr explained that the Township was able to recover from financial strife by under spending and budgeting conservatively. He added that Union Township carried over almost \$2 million dollars this year, which may seem like a lot of money, but is needed in the General Fund during the months the Township has no in-flow of tax revenue. If there were insufficient funds in the General Fund, a tax anticipation loan would be needed to keep the Township going.

Mr. Spahr announced that last Thursday a work session was held to gather information regarding the benefits of using a third party professional in responding to the right-to-know request of Beau Berman of WTAE-TV. The request is for copies of emails from and to certain Supervisors and all emails on certain subject matters. Fulfilling the request would involve gathering the conforming emails from the Township computers as well as from the Board members' individual personal email accounts. The resulting quote from the firm came in at around \$3000 dollars.

In order for the third party firm to conduct the search, Board members would have to surrender their email account login(s) and password(s) to the firm which would then supply the Township with the emails that fit the search parameters used pursuant to the request. However, it would be necessary for someone else on the Board, or Judy Taylor as Right-to-Know officer, to open up the emails and determine if they are responsive to the request before supplying them to Mr. Berman at WTAE-TV. Ms. Taylor was asked for her opinion as to how she felt about evaluating whether or not each email is responsive to the request. Although Ms. Taylor said that she would do the evaluation, she indicated she would rather not review the supervisors' emails. It was also noted by Ms. Taylor that Mr. Mannsman took a copy of the Township database with him due to the short timeframe the Township has in fulfilling the request should his firm be asked to do the work. It was also noted that Mr. Mannsman suggested converting the emails from their current format to PDF so that they could not be altered.

The Board discussed the options of supplying a hard copy versus an electronic copy and whether or not to employ the services of the third-party.

Mr. Spahr stressed that if everyone supplies his or her own email, there may be questions as to whether everything that was relevant was supplied and that employing a third-party firm would show that best practices were used and that the Township performed its due diligence.

Ms. Daerr pointed out that the original request as initially received only said copies and did not specify electronic copy vs. hard copy print outs. Ms. Daerr provided her copies in hard copy format in an envelope at a prior time. Mr. Trax tonight has brought in an envelope of all his printed email as it would pertain to the request. Ms. Daerr also read aloud the email response Ms. Taylor received from the Open Records Office in regard to Ms. Taylor's questions as to whether emails from a personal email account on a personal device were subject to right-to-know and whether charges for a forensic review could be charged to the requester. In

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summary, the Open Records Officer replied that the individual supervisors were responsible for supplying all emails, regardless if from their personal or Township account, that would fall within the subject of the request and were considered a "transaction activity of the agency," and that there was no requirement to employ a forensic computer analyst; although, the requester could be asked to bear the cost if he was in agreement with the Township's choice to employ one.

When contacted, Mr. Beauman was not willing to pay any of the cost for the right-to-know request outside of the .25 for each hard copy page that the law allows the Township to charge. Electronic copies are generally free of charge. Some members said they preferred not to use tax payer money to hire an outside firm to conduct the email search. Mr. Spahr questioned the decision not to hire the independent third party based on the fact that the Township has spent tax payer money to re-advertise the paving project and on costs related to other decisions. One member noted that deleted emails would not be available per the consultant anyway. However, Mr. Spahr reported that he has heard mixed reports on the availability of deleted emails.

There are only a couple more days to fulfill the request on time. In terms of an extension, the requester has the right to say whether or not he would agree to an extension.

Lori Kenavey, 6088 Brownsville Road Extension, commented that the Board members should be accountable and have an independent party review the devices and identify the emails.

Motion that each Supervisor will review their own email accounts to determine what is responsive and supply their own responsive records by July 14, 2016, to the RTK officer to fulfill the right-to-know request of Beau Berman – WTAE-TV.

Motion by Deborah Sargent, Second by Charles Trax

Roll call vote: Spahr-no, Trax-yes, Chasko-no, Sargent-yes, Daerr-yes. Motion carried.

It was noted that, if the requester believes he has a basis for appeal, then there is an appeal course.

Mr. Spahr reiterated concerns relative to the Supervisors making their own evaluation as to what emails to supply and requested that the Board seriously consider their motion.

Mr. Chasko said that he voted no on the motion to supply the records in this manner as his opinion was that the Township will be requested to supply them through an independent party anyway.

The solicitor was consulted regarding the steps necessary to hire Harshman CE Group to complete the Township Road Map and Zoning Map which the Board previously authorized Carl DeiCas of KLH Engineers to complete.

Motion to rescind the Board's prior motion authorizing KLH Engineers to complete the Township Road Map and Zoning Map for \$1000 each

Motion by Heather Daerr, Second by Paul Chasko

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

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Motion to authorize Jamie Harshman to complete the Township Zoning Map and Township Road Map not to exceed \$1000 each.

Motion by Heather Daerr, Second by Deborah Sargent

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

In terms of the McChain Road easement agreement, it was discussed that, though the agreement was prepared and the exhibit created, it was decided that the easement is not necessary since the right-of-way in the area was determined by Harshman CE Group to be almost ten feet wider in this area due to a subdivision. The solicitor provided the Grant of Easement document he suggested we use for all easements to Mr. Harshman and will provide a copy to the office in Microsoft Word.

In regard to Sunoco, the company agreed to \$25,000 in damages at the last meeting. The estimate was around \$200,000 for repair/repaving of the whole road. It was discussed that the Township may have been charged for a Patterson Road video. If that is the case, Mr. Harshman will try to obtain a copy.

Ms. Daerr brought to the attention of the Board that trucks have been seen using McClelland Road due to the Venetia Bridge construction. McClelland Road was resurfaced last year.

In regard to Mobilitie, Municipal Consulting Services reported that, if they meet requirements, that they cannot deny their request if they are in compliance. However, per the solicitor, if there are issues of safety, fencing, or traffic control, the Township can ask that they comply with those conditions. It was established that Mobilitie sent their own application form which is a Right-of-Way Utilization Application which the Township does not have. Mr. Ivery was requested to send them a letter informing them to fill out the Township's Conditional Use Application.

The Secretary said that right-to-know requests often require searching through invoices and many man hours. She noted that an attendee who requested legal costs on a certain matter recently commented that the staff should just be able to run a report. Since the invoices originate from outside the Township, all the data would have to be rekeyed on each invoice from our consultants in order for a report to be run. Although there is some data in Quickbooks when the invoices are paid, Quickbooks often does not have the sufficient detail necessary to respond to some requests. To more efficiently address right-to-know requests associated with professional services costs, she asked the professional services contractors whether they could supply the Township with, not only a hard copy of their invoice, but an electronic data file as well containing the task, date and amount of each invoice item, with the data file being either in Microsoft Excel or in a comma delimited CSV format. She explained that the staff could easily import the data file into a program from which they could run a report on the costs associated with various construction projects or legal activity eliminating the need to spend so many staff hours on these requests.

The secretary also asked that a copy of each document file be supplied to the Township office for filing so that there is always a record of these documents in the Township office as these copies have not always been supplied to the secretary.

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The secretary also commented on the new database module created by Ms. Fundy for tracking bond expirations and road videos. She explained that once she passes zoning related documents that come in the mail off to the zoning officer and engineer, copying the board, that she has little else to do with the process and would not necessarily be privy or have a copy of the road video or bond to save it to the Township server or attach it in the database unless it was established as a requirement by the Board as part of its procedure for the professional services contractors to automatically provide the road video and bond to her along with the contact information. Otherwise, there is no way she can keep it updated. It was decided that MCS will complete the data and attach the road video and bond files and she will not need to consider it her responsibility to obtain and attach them in the new Microsoft Access module.

Motion to authorize purchase of a Kubota Zero ZD121-60 in the sum of \$12,397.07 per state contract quote No. 4400011361 to be reimbursed from the Capital Reserve Equipment Fund. Motion by Deborah Sargent, Second by Paul Chasko
Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

Motion to approve re-installation of existing guide rail and purchase of one new section of guide rail in the sum of \$3100 to replace the guide rail on McChain Road which was removed for the storm water repair.
Motion by Paul Chasko, Second by Heather Daerr
Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

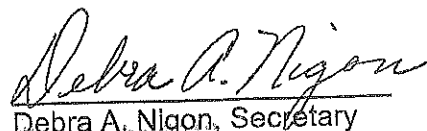
Motion to authorize the engineer to inspect a deteriorated cross pipe on Gayle Street.
Motion by Heather Daerr, Second by Deborah Sargent
Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

The Road Superintendent reported that there is an issue with bird droppings at the concession stand at the Union Township Community and Veterans Memorial Park. He will obtain a quote on spikes to discourage the birds from sitting in the gables. It was suggested by an attendee that an owl decoy placed in the gables may be helpful.

Motion to approve General Fund bills as of July 11, 2016, in the sum of \$75,659.66 as presented by the Treasurer, subject to being true and correct.
Motion by Charles Trax, Second by Heather Daerr
Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.

There was no Executive Session.

Motion to adjourn at 10:15 p.m.
Motion by Paul Chasko, Second by Heather Daerr
Roll call vote: Spahr-yes, Trax-yes, Chasko-yes, Sargent-yes, Daerr-yes. Motion carried.


Debra A. Nigon, Secretary

Minutes not certified by the 2016
Union Twp. Board of Supervisors
or staff members.
Refer to Resolution 2018-7
for details.