

**Union Township Board of Supervisors  
Legislative Meeting  
April 28, 2021  
5:00 p.m.**

The Union Township Board of Supervisors meeting was called to order by Chairperson, Heather Daerr at 5:00 p.m.

**Pledge of Allegiance**

**Proof of Publication** confirmed

**Moment of Prayer** by Pastor Glenn.

Attendees at meeting were: Heather Daerr, Chairperson; Charles Trax, Vice Chairman; Richard Lawson, Supervisor/ Treasurer; Hal D. Breinig, Supervisor/Roadmaster; David A. Esken, Supervisor/Roadmaster

Also, in attendance were: Roberta Singer, Secretary/Ass't. Treasurer; Karen Brown, Administration; Gary Sweat, Solicitor, Sweat Law Offices; Jamie Harshman and Sean O'Dell, Engineers – Harshman CE Group, LLC; Sarah Scott, Esquire, Sweat Law Offices

**Public Comment**

None

**Executive Sessions:**

Thursday, April 15, 2021 (Personnel and Litigation Matters)

Wednesday, April 28, 2021 (Personnel and Litigation Matters)

**Solicitor Report –**

In contact with Mr. Klassen of Tuscany Estates. Engineer Stiner and/or Engineer Harshman were in contact. Waiting for return response about setting up meeting.

Issue regarding audit report – overpayment of State share and change in payroll status of employees. They overpaid due to payroll calculations. Refund has been made. No further issues.

State Court hearing on preliminary junction on Carla Mader litigation continued to May 20, 2021.

Discussion on request by Senate Engineering on Act 537 Plan. Issues to finish same and Harshman had to step in and finish same. Under the gun with DEP and Township had in excess of \$20,000.00 to finish plan. Therefore, we do not recommend that Senate receive anything more than 50% of fees.

We as a Township involved in incredible litigation over the past year. It started with Cardox Road project. Identify project, bid project, if you agree with numbers, you engineer it, you go out and get easements to go onto people's property either permanent or temporarily. That is the way road projects are developed. In this instance, everyone but the Maders and Gniadek's agreed to easements that we needed to work. In order to keep project moving and filed eminent domain proceedings stated we needed to go onto your property, we may need to take some trees, or whatever we need to do to make the project uniform and safe. If you think you are entitled to damages, you can come in with appraisals and it will be mediated. This Township has spent tens and tens of thousands of dollars in legal fees. When somebody files a lawsuit, you have the responsibility to respond and defend. The Township has been sued in Western District Court in Pittsburgh and that lawsuit named the Township, every sitting Board member, me individual, Mr. Cruny individually, our Zoning Officer at the time individually, Harshman individually and the demand was for \$6,000,000.00 because we violated their constitutional rights. If any of you were sued for that amount of money, believe me you would come out with both barrels blasting. We have insurance carrier and major law firm in Pittsburgh defending us on these matters.

We also found out that the Maders filed a Chapter 13 Bankruptcy Reorganization. When this type of action commences, all proceedings involving that individual or that company have to stop. We had no choice but to go into Bankruptcy Court and filed Motion for Relief from Stay. Mrs. Mader and her group also filed a Motion for Sanctions for us exercising our due process rights in asking for \$4,000.00 in damages. Court Order issued denying the Mader's Motion for Sanctions and a Court Order lifting the stay permitting the Township to proceed with eminent domain actions in State Court. A lot of time and a lot of expense to date.

Anthony Pellegrino, a non-attorney, entered his appearance to represent the Maders and Gniadeks. We filed Motion to Strike his appearance, Judge issued an Order stating he is absolutely forbidden to represent the Maders as a non-licensed non practicing attorney. The Maders filed Request for Temporary Restraining Order in August of 2020 to prevent us from doing anything, which was denied.

Mediation was ordered – incurred thousands of dollars for a day and a half. Judge Scanlon believed that our proposal was reasonable and not available after 8 hours. No results. Judge Weigand scheduled a full day hearing. A month after hearing, the Judge issued a 13-page Decision denying Mader's Motion for Preliminary Injunction.

Mader's filed 2<sup>nd</sup> Motion for Temporary Restraining Order asking for us to stop from doing anything in state court. Judge issued another extension Decision denying her Motion and ruled that under the Anti-Injunction statute, which was a federal case, the federal court had no authority to intervene in what was a distinct state court action eminent domain that governed the police and legislative powers of a municipality.

Township then filed a Complaint for Permanent Injunction and hearing now scheduled for May 20<sup>th</sup>, and now in front of Judge Emery. Next step is to file Motion to Dismiss, extensive discovery, deposition and possibly a jury trial in Federal Court on that Complaint if any of the Counts are upheld by the Judge. Insurance company has paid

\$150,000.00 so far and that does not count what the Township has paid – with taxpayer dollars. We want to see what impact this has on our insurance for next renewal term.

**Unfinished Business**

Board of Auditor position – 1 vacancy.

Motion to add an item to Agenda – to discuss a curb on Gary Avenue

Motion: Daerr

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

No public comment at this point on the Gary Avenue Motion addition to the Agenda.

Motion to approve Payroll dated April 30, 2021, in the amount of \$9,381.55 which consists of 1 administrative, 2 road crew and 1 Road Master and 1 tax collector.

Motion: Lawson

Second: Trax

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – abstain Esken – yes

Motion Carried

**New Business**

Motion to Approve payment from Tuscan Estates Escrow Account for snow plowing and salting for 2018 through March 2021 winter season in the amount of \$5,667.74.

Motion: Esken

Second: Breinig

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve transferring funds from Tuscan Estates Escrow to Union Township General Funds for plowing & salting from 2018 through March 2021.

Motion: Lawson

Second: Breinig

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve use of Board Room for Tuscan Estates Board Meetings.

Prospective dates are Wednesday, May 19, 2021, and/or Tuesday, May 25, 2021 @ 6:30 p.m.

Motion: Daerr

Second: Breinig

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve signature verification which is to be set up by Sweat Law Offices for contract(s) received, review and authorization for Heather Daerr, as Board Chairman, and Roberta Singer, as Township Secretary, signatures.

Motion: Breinig

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve payment to Back Road Energy, Inc. for playground upgrade in the amount of \$3,530.00

Motion: Breinig

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve appointing Planning Department Director – Sean O’Dell of Harshman CE Group, LLC to be acting Director with possible additional personnel.

Motion: Daerr

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve purchasing a camera for front entrance security door and a replacement for broken camera in back of Township Building in the amount of \$743.58

Motion: Lawson

Second: Esken

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve advertisement for bid of 2021 Road Program wherein Harshman CE Group will do the advertising.

Motion: Lawson

Second: Breinig

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve advertisement for bid of Pleasantview Slide Repair Project wherein Harshman CE Group will do the advertising.

Motion: Lawson

Second: Daerr

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Table Scarmazzi PRD Request for Pavement Modification from 12" of 2A or 2RC to 6" 2A or 2RC stone subbase, 4" to 3" of 25 mm base course and 1.5" to 1.0" of 19 mm. binder course.

Motion: Daerr

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Tabled

Motion to Approve execution of Cooperation Agreement between Union Township and the Redevelopment Authority of the County of Washington

Motion: Daerr

Second: Breinig

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve arrangements pertaining to Elrama Fire Department putting up and taking down Veterans Banners for the season. Date Chosen is May 1, 2021 @ 9:00 a.m.

Motion: Breinig

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve Joseph & Debra Lisanti and Shea Devt, LLC Subdivision Plan No. 1 Subdivision Application conditioned upon Harshman CE Group's April 10, 2021, comment letter.

Motion: Daerr

Second: Breinig

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve Jamieson Subdivision Sewage Planning Module

Motion: Daerr

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Deny Jason Park & Veterans Park Repairs Change Order to pressure wash concrete walk path and toddler playset, remove rust from hand railings along concrete walk, and paint railings for \$2,100.00

Motion: Daerr

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Denied

Motion to Approve authorizing Solicitor to advertise and prepare for adoption the Stream Maintenance Ordinance language as approved by the Planning Department.

Motion: Lawson

Second: Breinig

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve Parks & Recreation Virtual Art Class Expense (1 per month for 4 months for 3 different age groups) Cost per month is \$875.00 for a grand total of \$3,500.00.

Motion: Lawson

Second: Esken

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve authorizing Township Secretary Treasurer to coordinate payment plans by homeowners with valid hardships for their payment of sewer tap-in fees on the Overlook system.

Motion: Breinig

Second: Daerr

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve the purchase of a radar speed sign for use on McChain Road based on the quotation from Radarsign, LLC in the amount of \$3,645.00.

Motion: Breinig

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to Approve Sweat Law Offices to revise and forward Sales Agreement to Leco's for use in Mingle Circle Sewage Program in the amount of \$30,000.00 subject to an appraisal and not to exceed \$30,000.00.

Motion: Breinig

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion that Union Township agrees to approve the final Master Plan for the PRD as presented by NVR and developer and be able to proceed without issuance of the Highway Occupancy Permit from PennDOT for Walter Long driveway permit and the emergency access road next to the Beach house Restaurant. Once the PRD Master Plan is approved and the sub-division, land development and plats for the proposed residential lots are finalized, pursuant to the Township Subdivision and Land Development Ordinance and Zoning Ordinance, building permits and occupancy permits will not be withheld as it relates to the HOP.

Motion: Breinig  
Second: Lawson  
Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes  
Motion Carried

Motion that Union Township understands that it will need to be the applicant for the Walter Long driveway permit insofar as the record chain of title indicates that the lower part of Walter Long Road is a public road and the balance of Walter Long Road once the same has been developed to Township specifications, will be considered, and dedicated to the Township as a public road. The Developer will agree to prepare, submit the application, and pay for all submission costs incurred by Township including engineering and legal fees. The Developer agrees to construct the balance of Walter Long Road according to Township specifications and to comply with PennDOT standards for the local road intersection. Should an HOP not be granted, the Township will allow the portion of Walter Long Road to be private with the understanding that the same shall be installed with the Township specifications but be maintained by the Developer and/or the Homeowners Association that will be formed. These items will be set forth the Developer’s Agreement between the Township and the Developer of the Mineral Beach PRD.

Mr. Breinig added a comment regarding that once this Development is complete, the Township will be receiving Liquid Fuel funds for that road.

Motion: Daerr  
Second: Breinig  
Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes  
Motion Carried

Motion is so long as the Developer obtains an HOP for the Walter Long Road from PennDOT, and Walter Long Road is improved to Township specifications and standards, the same will be accepted for dedication by the Township. The Developer will be required to submit final construction plans to the Township for review and approval and a Developer’s Agreement and an Infrastructure and Maintenance Bond must be established. Township inspections will occur during construction and Deed of Dedication documents will be prepared by the Developer subject to the approval of the Township before those portions of Walter Long Road are accepted into the Township’s public road system.

Motion: Lawson  
Second: Breinig  
Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

Motion to approve Harshman CE Group review and come up with a plan/specification for fixing curb on Gary Avenue.

Motion: Daerr

Second: Lawson

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken – yes

Motion Carried

**Discussion Items:**

2021 Budget Memo from Frank Palermo – to be placed on Website for public review. Also, about additional website additions for each project and updates as they occur.

Discuss timing of El Grande placing double seal coat on Cardox Road to finalize the 2019 Paving Project. Price escalation for years – Change Order for \$.15 price increase will be presented at next meeting.

Discuss Greenways, Trails and Recreation Program Grant of \$71,276.00 awarded on 4/21/2021 to the Township for the Phase II of the Elrama Central Park Development

Discuss flail mower repair. Purchase a European mower and 1 dealership that can work on this mower. Possibly get to Lancaster to repair. We need to get mower fixed and it is fixable but need to find someone to fix it. Issue is Massey Ferguson tractor at John Deere dealership. We need to pull out of John Deere and take it to a Massey Ferguson dealer. Mr. Breinig gave update on injectors, computers, etc. and possibly taking mower to Lancaster.

Brian Spiegel – 6263 Brownville Road Extension – can we go back to dealership and possibly get help with repair and/or transport of same. It would be work the 15 minutes to do some research.

Machine (flail mower) is fixable just need to find someone to fix it. Machine originally purchased from Walsh Equipment.

Discuss verifying E-code updates are current with respect to recent ordinances.

Discuss considering Planning Department development of an ordinance regarding maintenance responsibilities for sidewalks, driveways, and driveway pipes.

Motion for Bill Pay list in the amount of \$40,090.46 out of General Account.

Motion: Lawson

Second: Breinig

Roll Call: Daerr—yes Trax—yes Lawson—yes Breinig—yes Esken—yes

Motion Carried



**Correspondence – None**

**Public Comments**

Cheryl Robinson – 6265 Brownsville Road Extension – objects to Q&A Rezoning to RD to C2. Abuts my property and we object. Hearing to be held on 5/5/2021 @ 5:00 p.m.

Brian Spiegel – 6263 Brownsville Road Extension – spoke about rezoning of Q&A rezoning – and rezoning at corner of McChain and Thompson. Why would we put industrial parks along secondary road in residential areas? Complained about construction noise – also the lateness in which trucks are travelling on the roads. Did some research but unable to find any information. Also, killing off wildlife and going to miss wetlands. Speaking of not being able to see animals (fox, deer, etc.). Rezoning going on with no notifications. Other neighbors are also upset with all the rezoning and no notifications. Trucks moving at 1:00 a.m. and construction working. Mr. Spiegel was advised that if noise is heard after certain house, he needs to notify the police as we are covered with noise ordinance. Discussion about noise at Tomko and we all understand what you are going through with the noise.

Pete Guido - 125 Viarrego Way, Tuscan Estates – markings on Tuscan Drive – what is going on. Sean to look into PA One Calls as to what they are planning on doing. White marks are dig marks. Also, has any Supervisors, Solicitor or Harshman had contact with Bruce Klassen. Mr. Sweat responded there are still deficiencies that need to be addressed. Current Bond with Quaker – if property gets sold to Maronda, will that bond get transferred to Maronda. We need to see Sales Agreement to see how this will be handled. Also, are there park grants available – does Harshman know of any of this? The 2 agencies are for public projects. What grants would be available to homeowner's association and look at their webpages to see if they are available to you.

Michalle Dupree – 6178 State Route 88 – Q&A Landscaping rezoning, mention that on website, as well as pictures, information about hearing, minutes, etc. so people can see what outcome is. May 27, 2020 hearing minutes are not up. Sweat Law Office bill – documentation between my attorney and this Township. Minutes, advertisements, etc. Over \$10,000.00 in legal bills. Over \$4,000.00 fighting me over minutes and advertisements. Also, Gary Sweats bill - \$145.00 per hour for Ms. Scott to be here. Why do we need 2 attorneys here?

Linda Evans Boren – 22 Parkview Dr – Rezoning of Q&A – doing research – Cardox Road property – no public hearing, not posted and no public hearing. I read ordinance and in any change regarding hearings, no public notices, no advertising, etc. Invalid ordinances since no hearing and no notices – invalid ordinances. A lot of these ordinances will be challenged since nobody was notified of ordinances, hearings, etc. This board needs to make sure things are following with procedure.

Deborah Kennell- 16 Rebecca Drive – This Board meets a little too early for the common person. Can we move meetings to 6:00 or 7:00 like other groups?

Ms. Daerr stated that we were here until midnight or so. And it takes its toll on professionals and staff as we pay overtime for staff here. We can consider time changes and take it under advertisement.

**Supervisor Comments**

**Executive Session – 7:00 p.m.**

**Return from Executive Session – 7:10 p.m.**

Personnel and Litigation Matters discussed. No decisions were made.

**Motion to Adjourn @ 7:10 p.m.**

Motion: Daerr

Second: Trax

Roll Call: Daerr – yes Trax – yes Lawson – yes Breinig – yes Esken - yes

Motion Carried



ROBERTA J. SINGER, Secretary