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**MINUTES  
REGULAR MEETING OF THE  
UPPER BURRELL SUPERVISORS**

**WEDNESDAY, APRIL 7, 2014 7:00 PM  
MEETING ROOM, 3537 - 7<sup>TH</sup> STREET ROAD**

Board of Supervisors Chairman, Ross Walker II called the regular meeting of the Upper Burrell Township Supervisors to order at 7:00 pm.

**PLEDGE OF ALLEGIANCE**

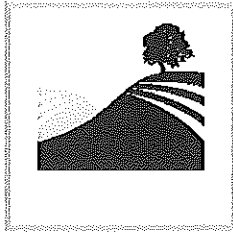
**ROLL CALL:** The following members of Council responded to roll call:

**Present:** Chairman Walker  
Vice Chairman Dombroski  
Supervisor Uhler

**Also present:** David Kerchner, Engineer  
Melissa A. Holmes, Secretary  
Stephen Yakopec, Solicitor

**FIRST ORDER OF BUSINESS** – Public Hearing on the Kathy Henry Myers property, 93 acres located on Myers Road, Ms. Myers requested that the property be rezoned from CC to RA. Solicitor Yakopec stated that he did receive a letter from Westmoreland County Department of Planning and Development stating the proposed Ordinance has been determined to conform to the short and long term planning goals and objectives of Westmoreland County and is consistent with its efforts and intents. Solicitor Yakopec asked if there were any comments or concerns from any members of the audience. None were stated. A member of audience asked if the hearing needed to have a stenographer present and Yakopec stated there did not need to be because its being recorded. A motion was made by Walker second by Uhler to grant Ms. Myers rezoning request from CC to RA. Motion passed 3 - 0

**COMMENTS ON AGENDA ITEMS** – Leon Yurkin, 3603 Baxter Drive, asked about the Comcast agreement. Solicitor Yakopec stated that the new agreement will reach more families and is a better agreement then the old one with Alephia. Comcast did come out and view the Township and there are certain area on Upper Drennen Road and Fawn Hill Lawn which they will extend service to. Also the density coverage will be reduced from 30 miles to 25 miles, the payments made to the Township will now be on a quarterly basis rather than a yearly, and there is an opportunity for free service to be provided to the Upper Burrell Volunteer Fire Company and also to the Township Building, however, may not be possible



due to the Police Department having a special line that is shared with the Township and cannot be split apart. Walker stated we could not get service to everyone but we will continue to work on that. It is a 15 year contract and we are at the standard 5% gross but there is a clause in there that says if you can charge more it can go up but could also go up, if people are buying the bigger options for TV that's all part of the revenue stream we would get.

George Banyas, 361 Hunter Hill Road, asked about Spring Clean Up days and stated the Township should consider making it free for its residents. Leon Yurkin stated that if the cleanup was free you would not see furniture dropped off along the roads. Supervisor Dombroski stated that is not necessarily true it is more so people who live out of town looking to dump furniture off. Dombroski stated that's fine to have a free cleanup day it will be set for May 17, 2014 from 8:00 am to 2:00 pm, and all residents must have proof by showing ID that they are a resident, and the following items will not be accepted, paint, shingles, electronics and hazardous materials. Tires and tires on rims will be accepted and Dombroski will get a current price sheet to set the removal fee.

A motion was made by Walker second by Dombroski to have Clean Up day on May 17, 2014, with the above mentioned conditions and a cut off price for expenses that would be incurred by the Township. Motion passed 3 - 0

#### **APPROVAL OF THE MINUTES**

Motion made by Walker, second by Dombroski, to approve the minutes of the March , 2014, regular meeting of the Township Supervisors. Motion passed 3-0.

#### **OPENING OF BIDS**

The sealed bids for road materials were opened and read aloud.

Motion made by Walker, second by Dombroski to turn the bid packages over to the Engineer, Dave Kerchner for his review and allow him to award the bid to the lowest bidder. Walker stated also that the bid received from M & M Lime Co. needed to be rejected due to not including a bid bond.

Motion passed 3 - 0

#### **CORRESPONDENCE**

Chairman Walker asked Ms. Holmes, to review the correspondence from the month. Ms. Holmes reviewed the items that were listed on the agenda.

#### **ROAD REPORT**

Supervisor Dombroski reviewed the activities of the Road Department for the month of March. Supervisor Dombroski stated some of the work was performed removing snow, working on vehicles, cleaning out ditches, cutting up trees. Dombroski also stated that Dutchman's Run Road although located in Lower Burrell will be closed for repairs beginning on May 16 and to end on May 23, 2014. Dombroski went on to state that the County's dirt road program has changed and they are now offering help to tar & chipped roads and roads that have at least 500 vehicle volume, however you must attend classes to qualify.

#### **POLICE REPORT**

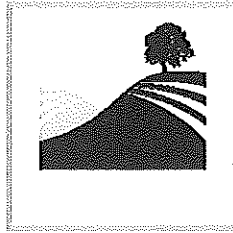


BIDDER		GLASSMERE FUEL		EXPORT FUEL		BRADIGAN'S INC.	
BID SECURITY		10%		10%		\$2,804.83	
		Unit	Total	Unit	Total	Unit	Total
6	5,000 Gallon						
	Gasoline, Unleaded 87 Octane with Ethanol						
		Delivered/Gallon as a constant margin over the average O.P.I.S. price in effect at time of delivery as substantiated by proof of price such as a copy of the O.P.I.S. Pad 1 Report.					
		0.1694	847	0.1133	566.5	3.0608	15,304
7	4,000 Gallon						
	Clear, Ultra Low Sulfur Diesel B2 Bio Blend						
		Delivered/Gallon as a constant margin over the average O.P.I.S. price in effect at time of delivery as substantiated by proof of price such as a copy of the O.P.I.S. Pad 1 Report.					
		0.1694	677.6	0.1133	453.2	3.4256	13,702.40

**Road Report March 2014**

2	snow removal
3	snow removal, cleaned up trucks, wrote up February road report(PD)
4	spread antiskid, wash and vac 9-26, mixed antiskid
5	spread antiskid, dumped out trucks and hosed out beds and spreaders, swept and mopped halls and bathrooms, scraped rust on Peterbilt
6	worked on backhoe
7	personal(PD), vacation(TW)
10	worked on 9-26 brakes, mixed antiskid, swept garage and cleaned out floor drains, picked up newspaper blown out of recycling bins by wind
11	sick(TW), worked on 9-28 taillights, swept and mopped meeting room, typed up and printed sheets to record road sign reflectivity
12	cleaned out culverts, repaired corroded wiring on International, fueled trucks, loaded antiskid
13	spread antiskid, removed tree branches from roads, serviced road dept Crown Vic
14	spread antiskid, wash and vac 9-26, marked PA One Calls
17	wrote up time sheets(PD), dumped antiskid out of trucks and hosed out beds and spreaders, took Peterbilt to Murrays for wiring repair, removed front backhoe wheels to scrape rust and repaint
18	personal(TW), swept and mopped halls, worked on backhoe rust repairs
19	picked up Peterbilt from Murrays, primed and painted backhoe rust repairs, mounted broom to tractor and adjusted
20	removed wheels and checked brakes on 9-26, removed seat and floor mat from backhoe- scraped rust and applied rust inhibitor
21	painted backhoe floor, patched Myers
24	mounted seat and put floor mat in backhoe after painting, sprayed off undercarriage of 9-28, worked in garage
25	removed rust on Peterbilt bed and welded in metal patches
26	spread anti skid on ice patches, picked up parts for 5510 tractor(TW), went to AAA to try to get a replacement for lost owners card for F-550, scraped rust on Peterbilt bed
27	power washed International, salt spreader and snowplow, took truck to Commercial Spring for spring repair
28	wrote up time sheets and truck maintenance logs, painted Peterbilt bed, vacation(TW-8, PD-4)
30	painted Peterbilt bed, picked up International from Commercial Spring after repair, patched Myers

Submitted By: 



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There were 93 incidents for the month.

#### **EMC REPORT**

Coordinator Knox reported that he will be closing up on the Hazardous Mitigation Plan and will on his behalf submit the Township's plan to the County, and that Mr. Knox is the POC and Dave Kerchner is the Flood Plain Administrator and this plan will help to obtain monies in the event of a disaster. Supervisor Walker informed the residents that the grant application for the generator here at the Township Building has been completed and submitted for consideration. The generator is a 60 KW generator, will run off of natural gas and will be used for the Township Building and also the Township Garage area and is available to all residents in the time of any disaster the Township Building will be the designated Emergency Center. Supervisor Walker thanked Mr. Knox and Mr. Kerchner for all of the work they did to get the grant application submitted by the deadline.

#### **ENGINEERS REPORT**

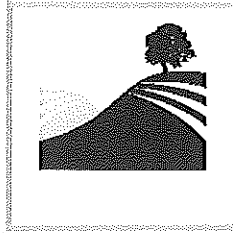
Mr. Kerchner reported that the work on the Lower Drennen Road Slide repair has not yet begun the contractor was placed on notice on 02/27/2014 and has 120 days to complete which would be until the end of June 2014. Mr. Kerchner stated that grant application for the generator was submitted by the deadline date. Mr. Kerchner stated that the Johnson Street preliminary drawings are completed and they have reached out the County Planning to see if any CDBG monies would be available to do this project.

**PLANNING COMMISSION – No report**

#### **SOLICITORS REPORT**

Reported that the property located at 1354 Oak Lake Road is up for Sheriff Sale and that if the Township has any liens on said property they need to forward that information to the Westmoreland County Sheriff in the event there is a sale of the property.

Solicitor Yakopec, stated that he was asked to research the Game Code, concerning safety zones, in the Commonwealth Court case of Baird vs. Township on New Brighton, Commonwealth Court decision 633A2nd225, the Commonwealth clearly stated the Game and Wildlife code clearly does not regulate the general discharge of firearms unrelated to hunting was not the intention of the general assembly for it to do so. Because the Ordinance was intended to protect the township residents from the random discharge of firearms unrelated to hunting the Ordinance specifically exempts hunting and other activities regulated by the Game and Wildlife Code we find it is not in conflict or preempted by the Game and Wildlife Code. There is also an Attorney General Opinion 17- issued April 16, 1974, is noted that local Ordinances which prescribe the discharge of firearms within the municipal boundaries can still be valid so long as they are construed as prohibiting the discharge of firearms within the municipality except where the firearm is lawfully used in hunting as provided for by the game law if construed in this manner such local ordinances would not conflict with the game law and would not therefore be invalid. In this case this Ordinance dealt with target ranges but the Ordinance contained exemptions, which exempted law enforcement officers, hunting or other activities under the Game and Wildlife Code, shooting ranges and the use of firearms in self- defense, farmers protecting crops and livestock, there were a bunch of exceptions in this Ordinance. It would appear to him based on the research he has



done than you can regulate the discharge of firearms. However that is a policy decision that the Board has to make and some places have it and some don't, but the 150 yards applies to when you are hunting.

Ron Slabe, 576 Angelcrest Drive, stated that yes it applies to hunting but the Township can pass an Ordinance where it applies to the discharge of any firearm, Yakopec stated that the Township can pass an Ordinance with exemptions, something to the fact that a firearm could not be discharged within 150' of any residential structure. Walker stated, that the Township has an Ordinance now, Yakopec stated don't enforce that Ordinance, it would not withstand any constitutional muster in a challenge. Walker stated in any way, shape or form. Yakopec stated it will not.

Leon Yurkin, 3603 Baxter Drive, called the State Police who sent him a copy of PA Crime's Code, Yakopec stated that this is section 2507 of Game Codes, Yurkin stated that this section stated 150 yards from any building, Walker stated also states within burial grounds. Yakopec stated that under the Game Code there is a provision/exception for discharging within the 150 yards but you need permission from the person living next to you lets you. Yurkin stated written permission. Yakopec stated without the specific advanced permission of the lawful occupant. (section 2505A)

Dan Rowe, 905 Merwin Road, stated that if you under you can do it even if it is 1' away, Yakopec stated yes as long as you have their permission and are hunting. Rowe asked under the current ordinance and going forward what can they shoot? Rifles, pistols, long guns, rim fire, center fire? Yakopec stated in his opinion the current Ordinance would not with stand a court challenge and at that point in time because he is saying do not enforce it then people can shoot whatever they are going to shoot. Yakopec stated all persons should use common sense.

## **NEW BUSINESS**

A motion was made by Walker, second by Uhler, to allow roadmaster, Pete Dombroski attend the Dirt and Gravel Road Program for maintenance issues on "low volume paved roads, which will be held on April 30 – May 1, 2014, in Greensburg, PA.

Motion passed 3 - 0

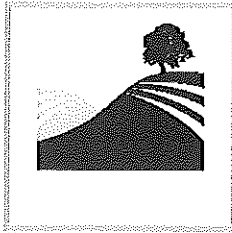
A motion was made by Walker, second by Dombroski, to permit Bryan Fitch, UBFVD, Fire Chief, to make any changes with the Westmoreland County 911, regarding the Fire Department's read out.

Motion passed 3 – 0 (Kurt Britton, stated have not been updated in 20 years, it would be to add more help especially in the daytime hours from 6:00 am – 6:00 pm)

A motion was made by Walker, second by Uhler, to accept David Jordan's letter of interest to fill the vacant elected auditor seat.

Motion passed 3 - 0

Walker made a motion, second by Dombroski to accept the new 15 years Comcast franchise agreement.



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Motion passed 3 - 0

Walker made a motion, second by Uhler to approve the letter of intent signed by David Knox, Primary POC and EMC for the Township to participate in the Westmoreland Hazard Mitigation Plan Update Project.

Motion passed 3 – 0

A motion was made by Uhler second by Dombroski to pay all the monthly bills and accept the financial report.

Motion passed 3 - 0

#### **COMMENTS FROM THE PUBLIC**

Dan Myers, Turkey Ridge Road, stated that other communities do have multiple restrictions on their Ordinance. However, there are other ways to enforce, such as by Criminal charges or crimes that are covered by the State & Hunting Codes.

Supervisor Walker made a motion to repeal the current Firearm Ordinance. Supervisor Dombroski asked if you had to have a hearing on this? Yakopec stated you don't have to have a public hearing on it typically you would pass an Ordinance that would be advertised nor more than 60 nor less than 7 days before the hearing repealing the Ordinance that is in existence.

Ron Slabe, 576 Angelcrest Drive, stated he agrees with Dan, however why not take it one step further and apply the safety zone law to all seasons.

Maxine Gregg, 2129 Greensburg Road, stated that once you make changes you need to make sure that all bases are covered, Castle Doctrine, police, etc. write a detail law and with said changes she could not defend herself in her own home there is enough now on the books.

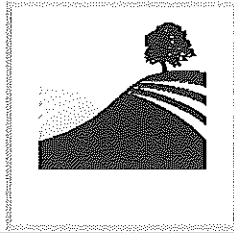
Yakopec stated the proper way to do this is to repeal the current firearm ordinance with a new ordinance repealing it.

George Banyas, 361 Hunter Hill Road, asked what ever happened to Supervisor Uhler's request to have a camera installed in the gas pump area at the Township Building?

Ron Slabe stated that all you would need is 1 sentence stating any and all firearm's shall follow PA Guns & Firearms statue as well as hunting regulations in safety zones in and out of season. That way safety is provided for at all times not just hunting season. Walker read aloud the handout from Ron Slabe.

Dan Rowe, said take steps, 1<sup>st</sup> vote to repeal it then move forward with building a new Ordinance. Yakopec stated, #1-attempt to apply a safety zone, 2-excessive force, what constitutes it?





Why can't Supervisor Walker set the date for the repeal for the outdated Ordinance then see if the next step is needed. Define the gray area not sure if it could get wrapped up in one meeting. Slabe stated to remember that the Supervisor's represent the whole group not just a singled out group and why not repeal the old ordinance and adopt the new one at the same time. Walker stated let's just do one thing at a time. Slabe stated to make sure you are following all the rules of the state of Pennsylvania. Yakopec and Walker stated that is already in place. Walker stated we have enough laws on the books now, Slabe stated but we don't have the part about a safety zone. Yurkin asked what do you call excessive? Walker stated excessive to one is different to another. Slabe stated is that not the reason we have been sitting here these last couple months is due to a few people being excessive? Walker stated look how long it took to get thru the drilling ordinance, sat for months and you could never please everyone.

Yakopec stated hold the hearing at next month at Supervisor's meeting, Walker stated we will advertise it a week before and Yakopec stated he will get it advertised sometime this month. Yakopec stated it will be a Legal Notice reading please be advised the meeting of May, 2014, at 7:00 pm the Upper Burrell Township Supervisors will consider the adoption of the following ordinance, prohibiting the discharge of firearms in the Twp. of Upper Burrell copy of the ordinance will be available during normal business hours at the Twp. office Monday thru Friday from 8:00 am – 4:00 pm, or can be reviewed or copies can be made at a cost located at 3735 Seventh Street Road.

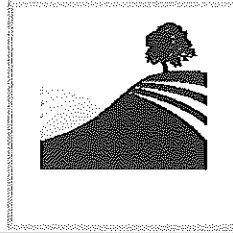
Rob Myers, 216 Rocky Lane, asked if the Police Chief will be notified to not enforce the current firearm ordinance. Yakopec stated he will send a letter to the Twp. notifying them that in his opinion that Ordinance is unconstitutional. Will that hold, Yakopec stated yes it coming from him, but if he goes under something else then he would not know. Walker stated you can still be cited for a nuisance and you still come under the laws of Pennsylvania. Walker stated as always common sense needs to prevail.

Ron Slabe, he likes what Walker just said about common sense that's why we have laws because not everyone does what they are suppose to. Walker stated people don't always use common sense.

George Banyas, asked whatever happened to Supervisor Uhler's request to have a camera installed at the gas pump area at the Township Building? Banyas stated he wanted it you said it was OK to do it then Pete wanted it in a different area. Dombroski stated he did not want it specifically on the post above the gas pump he wanted it so the whole area could be viewed. Banyas stated it should also show the gas pump area any person could get gas. Walker will find out about it.

Dan Myers, Turkey Ridge Road, clean up days, are you going to put a limit on how much the Township plans to spend? Walker probably should. Dombroski what do you want to limit? Myers how would you limit it and get other trucks here if needed. Dombroski stated he usually runs 1 truck that day. Banyas stated ask Steve, New Kensington usually does it for free also, Yakopec stated he did not know. Banyas went on to state that most places make money of the dumpsters that's why they keep them out for weeks.

George Richard, Hunter Hill Road, asked if you will make the resident show proof of residency?



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Ron Slabe, asked about the current ruling on Act 13, on regulated zoning, how will it affect our current ordinance? Yakopec stated he believes our current ordinance is in compliance with the Supreme Courts opinion it still protects peoples federal property rights. However they can still drill horizontally to reach an area but cannot place a pad on it. He will need to do more research and read the opinions on the this as to whether this can be restricted to an Industrial Zone. Slabe quoted, John Smith.

Wylie Schultz, asked about the Agriculture Security Act that the Township was trying to get passed. Walker stated it is in place.

Gary Ross, Myers Drive, asked the Supervisors if they would reconsider the decision made in 2009 that did not allow him to subdivide his property? Walker stated bring the paperwork up to the Township Building.

Larry Borowitz, 3629 Baxter Drive, inquired about the activity going on at the Tutelo well? He asked if we knew if the well was planning to be fracked or flared.

A motion by Walker to adjourn, second by, Dombroski, meeting adjourned at 8:22 pm.

Minutes Submitted by:

Melissa A. Holmes

Note\*\*\*

Next monthly meeting will be held on Monday, May 5, 2014  
Beginning at 7:00 p.m.