

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

***MONDAY, NOVEMBER 3, 2014, 7:00 PM
MEETING ROOM, 3537 - 7TH 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

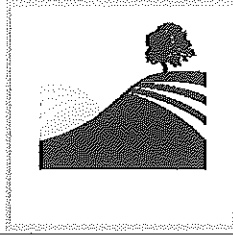
ROLL CALL: The following members of Council responded to roll call:

Present: Chairman Walker
Vice Chairman Dombroski
Supervisor Uhler

Also present: Michael Moore, Engineer
Melissa A. Cortilesio, Secretary
Stephen Yakopec, Solicitor

COMMENTS ON AGENDA ITEMS – Paula Gregg – 2513 Greensburg Road, addressed issues with the proposed Ordinance #3-2014. Mrs. Gregg provided a copy of letter she received from Shank Sanitation which states that they have no issues with being able to traverse on Swank Lane to pick up refuse. Mrs. Gregg went on to state that on Swank Drive no one has a right of way, it is her driveway, she takes care of it and if need be she will plant grass. She stated she could see if this was a public street, however, it is a private and there is no right of way. Mrs. Gregg stated that there has never before been any issues as to emergency vehicles being able to put out a fire, even when there was a fire at Bigfoot, they used the hydrant at Whitten Hollow, and if needed they can go thru her grass. Mrs. Gregg stated that a lot of homes in the community do not have access. She stated that the fire truck can get to those homes, the bridge is 18 x 25 and the fire hydrant is right there, and those residents do not use that end of the Lane. Supervisor Walker asked if the hump in the road is what keeps the water out of her home? Mrs. Gregg stated yes this does divert the water. Over the years she has had to pay to have the 636' of drainage cleaned out which is on her property.

Carol Magill, 2144 Swank Lane, she stated that the other access being referred to is her private property address, not a private Lane. Mrs. Magill stated that the fire truck can not make a left hand turn to get to the Plasynski home. Mrs. Magill stated that the Gas Co. may plan to shut down the road if this happens



it would be a complete shut off. She stated as for Swank Sanitation they bring a pick up truck up the Lane to pick up refuse not a big refuse truck. Mrs. Magill stated that the Emergency vehicles can get to her and her mother but not to the neighbors in the back, this road has been open for 21 years.

Solicitor Yakopec stated that this is a neighbor argument and should be decided in court. He was only asked by the board to research this. Ultimately it comes down to a lawsuit, which happened back in 1970. Which Mrs. Magill stated it was ruled a right of way and you cannot deny access to a private drive and it is insane to block it off. The Solicitor stated a judge would need to make the call on the right of way issue.

Maxine Gregg, 2129 Greensburg Road, stated there is a bigger issue that will effect everyone. Mrs. Gregg asked if there was a public quorum when discussion of this Ordinance came about. Solicitor Yakopec stated that is only needed for Zoning a regular ordinance is done at township meeting. Mrs. Gregg asked as to who would govern this Ordinance and such Ordinance directly infringes on the rural community. Supervisor Walker stated this issue will be tabled until more thorough investigation could be done.

Mrs. Magill did present the Solicitor with a copy of the 1970 court decision.

Paula Gregg asked when did the Township give the right of way to the people. Solicitor Yakopec stated PennDot gave it to the people not the Township. Mrs. Gregg stated she took care of the issue on her own. Supervisor Walker asked Mrs. Gregg would she agree to open the road as long as the ditch stayed. She stated that the ditch needs to widen again and any heavy vehicle may break the line. They do not want to be liable for any person who may drive into the ditch, she stated there is not speed limit signs and who will govern the Lane and who would be responsible for any damages, she said if you open up the road it will be like a free for all and she is not taking the hump down. Mrs. Gregg stated this is a private road and she has maintained it and will not be told where she can park vehicles, the road is closed for liability and safety issues if they open it up who takes it on?

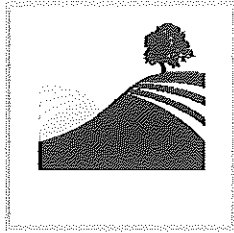
Ken Slahtovsky, 6200 Schaffer Drive, asked if the proposed amendment to the Gas and Oil Ordinance is a Zoning Ordinance. Solicitor Yakopec stated yes it is and there would be hearings on this, first it would go the Planning Commission then to the Supervisors. Solicitor Yakopec stated he was only give authorization to amend this.

APPROVAL OF THE MINUTES

Motion made by Walker, second by Dombroski, to approve the minutes of the October 6, 2014, regular meeting of the Township Supervisors. Motion passed 3-0.

CORRESPONDENCE

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



ROAD REPORT

Supervisor Dombroski reviewed the activities of the Road Department for the month of October. Supervisor Dombroski stated some of the work performed was patching and finishing up the work on the Myers Drive paving project and started some of the berm work.

POLICE REPORT

There were 89 calls for the month.

EMC REPORT - Mr. Knox stated that the Westmoreland County Hazardous Mitigation Plan has been completed and submitted to PEMA and FEMA once approved it will then be brought to the Board for approval and adoption. Mr. Knox stated he was asked to look at the issue on Swank Lane and he did make some recommendations to the Township.

ENGINEERS REPORT

Mr. Moore recommends that we do not pay Russell Standard for the Myers Paving job until the final wage report have been received and reviewed by his office, Bankson Engineers.

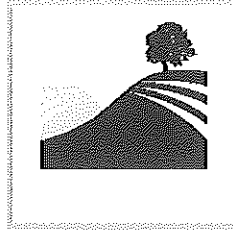
Mr. Moore stated that KU Resources survey is done and topography work is done they will move forward with the design.

Mr. Moore stated that the Township was in receipt of two quotes for the Road Management Plan in the amounts of \$34,000 and \$16,000, he believed that was more then what the Township wanted to spend and maybe his office can work with the Township and see if they can get a scope of work.

PLANNING COMMISSION – No report

SOLICITORS REPORT – The Solicitor stated that there was confusion as to what was authorized to him to do last month, he was asked to bring our current ordinance in compliance with the current PA Supreme Court Ruling. Plurality opinion, Chief Justice calls Marcellus shale oil & gas an Industrial Use, does not have presidential use which means lower courts do not follow, he stated this is a very complicated matter. The Solicitor stated he has contacted many lawyers about other communities working on this. He stated a decision will need to be made either leave it industrial, find out what the uses are and if these uses are compatible and what the potential affects the Marcellus shale will have. He stated Agriculture is the leading source of contamination. The Supervisors are in a no win situation they will need to figure out how to try to balance this.

The Solicitor stated there will be a proposal and it will have to be advertised twice then there would be hearings in front of the Planning Commission and at that time the residents will be able to express what it is they desire and then another hearing will take place in front of the Board of Supervisors will the residents will again be able to express themselves. The Solicitor stated there are probably many people in the room who have signed leases he stated this is a very complicated a lot will be determined in court.



Supervisor Dombroski stated is this a case that could get shot down and is there any guarantee that the state will not change it again. Dombroski stated does the state have a fund to pay the people if they can't sell their rights? Supervisor Uhler stated that 2009 a lot of money was spent getting the Zoning done correctly.

NEW BUSINESS

A motion was made by Walker, to table this issue until the 1970 ruling can be reviewed.

A motion was made by Walker, second by Dombroski, to approve Resolution #7-2014, defining the contribution to the Municipal Pension Plan for the year 2015.

Motion passed 3 - 0

A motion was made by Walker second by Uhler to approve Resolution #8-2014, defining the contribution to the Police Pension Plan for the year 2015.

Motion passed 3 – 0

A motion was made by Walker second by Uhler to transfer the funds for the police capital purchase line into the Capital Reserve Fund.

Motion passed 3 – 0

A motion was made by Walker second by Dombroski to transfer the funds for the Highway & Street capital line item into the Capital Reserve Fund.

Motion Passed 3 – 0

A motion was made by Walker second by Dombroski to transfer the employee health contributions from the Payroll Fund into the General Fund.

Motion Passed 3 – 0

A motion was made by Walker second by Dombroski to pay Russell Standard for the paving job on Myers Road as stated contingent upon receiving the final wage report being received and reviewed by the Engineer.

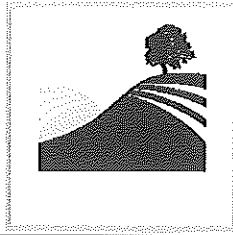
Motion Passed 3 - 0

A motion was made by Walker second by Dombroski to approve the transfer of \$1,000.00 from the General Fund to the Fire Hydrant Fund.

Motion Passed 3 – 0

A motion was made by Walker second by Dombroski to authorize the advertisement of the 2015 General Fund Budget.

Motion Passed 3 – 0



A motion was made by Walker second by Dombroski to approve the subdivision request and land development application of A. Richard Kacin on behalf of WCIDC for Lot #53 located in the WCIDCP in accordance with the recommendation of the Township Planning Commission and Zoning Hearing Variance granted in case #0114. Said approval is contingent upon the Westmoreland County Conservation District approval.

Motion Passed 3 - 0

A motion was made by Uhler second by Dombroski to accept the Financial Report and pay all the bills.
Motion passed 3 - 0

COMMENTS FROM THE PUBLIC

Frank Ross, 1128 Markle Road, asked why the Supervisor's are trying to regulate the drilling in the Township and taking everyone's rights away. Supervisor Walker stated the Supervisor's need to consider the options and also the residents would share in the grand plan and it would out them all if kept Industrial. The Solicitor stated the board would have to do this by engaging in an environmental impact study. Need to look for a proposed course of action and have to do analysis which also raises the issue of being sued. Need to figure out how board can make a balance maybe by rezoning but must have over 10 acres to do and figure in the air and water quality. RA is #1 pollutants of the water table. It is the interpretation not an Industrial Zone, it is an Industrial Use which will go into an Industrial Zone. Also need to figure the compatible uses in the other zones.

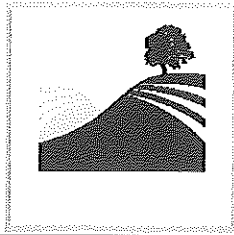
A resident asked what if in the Residential Zoned area you want drilling? Solicitor stated this is another item to be looked at and if you want it rezoned.

Robert Krajci, 409 Rich Hill Road, asked would the Supervisors consider looking at a continual use and let someone with ½ acre be left out? Supervisor Walker stated he is worried about Township not allowing the residents to use their property how they want. Solicitor Yakopec stated there are 6 approved pads at Alcoa which can go at least 2 miles underground.

Mr. Beatty, 6201 Schafer Drive, stated the gas will go thru the laterals and everyone gets a bite of this, there is money to be made.

Frank Ross, 1128 Markle Road, asked if any of the Supervisors have attended any other communities to see how they make it work. Solicitor Yakopec went to state that several counties in Pennsylvania have either been grandfathered in or drilling occurred prior to the new ruling, some communities have allowed wells in Residential areas as well as others who have struck down attempts to drill in residential areas, to his knowledge there is no exact formula on how to make this work.

Supervisor Walker stated he has looked at this issue from both sides, he has a shallow well which is a good well, but has heard about bad affects he was against this for a while, then heard of the revenue it could bring in and does not want to take it away from the residents. Things need to be done in a responsible fashion.



Brenda Molito, 280 Bethesda Drive, asked if these Gas and Oil Companies would come in and explain what it is they want to do and not just be hear say. Solicitor Yakopec stated it needs to be addressed conventional vs. nonconventional, Marcellus Shale, horizontal drilling, the industry will out price the law, these companies would not waste time on a plan if it would not work.

Tom Halkias, 170 Bethedsa Drive, stated that the 3 Supervisors are responsible and if 2 are set against it then the community stands no chance. Mr. Halkias asked why can't the residents vote on this? The Solcitor replied will have to look into to this and see if it can be on the referendum. Mr. Halkias as how do we move forward?

Several residents voiceed some various concerns. Asked about Deer Lakes Park, the solicitor stated that the drilling occurring there is outside of the park in a different community and they are going horizontally to access the park. The Solicitor stated that you can go under it but not drill in it, the issue is where the well head is located, which is where all the activity is. Need to determine where the well head can go so that it may access everyone in the Township.

Someone stated there has been 2 good issued brought up, have some of these companies come in and discuss the plan and put it on the ballot let it be decided in a democratic way.

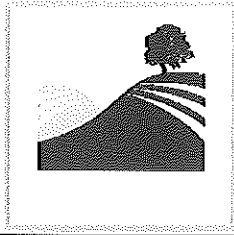
Paul Burke, Huntley & Huntley, stated he would be more then glad to sit down with the Supervisors to lay out their plan, he stated an executive session would be better due to the sensitive nature of some the information. Supervisor Walker stated he wants to set something up.

Amotion was made by Dombroski, second by Walker to have the Solicitor look into how to have this issue put on the referendum.

Motion passed 2 – 0, Uhler abstained.

Ron Slabe, 516 Angelcrest Drive, stated our country has a majority rule but minority rights, if in infringes upon any minority you cannot do it. Mr. Slabe stated that you cannot just take away his rights so his neighbor can make money have to make sure that it's a compatible use. Mr. Slabe stated that Majority Rule under Act 13 is unconstitutional, the commonwealth court cannot put compatible use with incompatible uses. Compatible use is due process, under the 14th amendment. I can do anything with my property as long as you don't cause problems with your neighbors. Mr. Slabe also mentioned to read the newspaper article, people who have signed leases does not mean the lateral will reach them.

Patricia Hagerman, Allegheny Township, warned all residents to do their homework before they consider drilling on their property. She stated that once a well is capped you as the home owner then become responsible to remediate any problems that arise, you could sue the Gas Co. at that point. She asked them to come look at Willowbrook Road, there is 300 acres of land and the owner choose to drill closest to the homes. Mrs. Hagerman also stated that once you change your zoning it will never go back to farming.



A resident from 521 Angelcrest Drive, stated what difference does it make, has to be responsible no matter where you drill. The Solicitor stated that court says pad can't be in a Residential Zoned District due to all the noise, etc. just some things don't fit together.

Ron Slabe, 516 Angelcrest Drive, quoted the case law from page 118 about the detrimental effects of drilling.

Mary Zdila, 7162 Guyer Road, stated that 5 years ago Chesapeake Gas Co. was here at a meeting and only a handful of residents showed up to listen. She has nothing to gain, all drilling horizontally will take all the rights away and they will just go further and further. She stated now that everyone is here they want to know, have the company come in and the people need to be more informed.

Someone stated look at Chapeldale, it is bordered by an Industrial Park so does that make sense? You have to look around, but just can't say Industrial, it's common sense no matter where you put it someone is not going to like it.

Allan Beattie, 6201 Schafer Drive, stated he live out in this community when there were mud roads, the trucks will use the roads and they will be fixed, the people with the small parcels are the ones who are complaining.

Dan Myers, 200 Barnview Drive, stated that as elected officials it is your job to respect the wishes of the residents, check into having it put on the referendum, don't vote on this with your personal interest you need to leave it behind you.

A motion by Walker to adjourn, second by, Uhler, meeting adjourned at 8:45 pm.

Minutes Submitted by:

Melissa A. Cortilesio

Note***

Next monthly meeting , will be held on Monday, December 3, 2014
Beginning at 7:00 p.m.

