



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

***MONDAY, DECEMBER 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: David Kerchner, Engineer
 Melissa A. Cortileso, Secretary
 Stephen Yakopec, Solicitor

COMMENTS ON AGENDA ITEMS –

Leon Yurkin, 3603 Baxter Drive, questioned letter G under the addendum page as to whether the Ordinance number was correct. Also Mr. Yurkin asked for some clarification on the Police Force in regards to the letter from Alcoa, he asked if our police force will be enforcing any of this.

Supervisor Walker replied by reading the letter from Alcoa. Supervisor Uhler stated that the Police Chief stated that only would assist on an as needed basis. Mr. Yurkin stated that he noticed on December 3, 2014 a lot of tickets on the cars parked in the Alcoa area. Dave Knox, EMC replied that Alcoa does have a form they will use to get the info on the vehicles parked on their property and if any of said vehicles return they have to information to then turn over to the police or Game Commission.

Mr. Yurkin also asked for clarification on the letter submitted from Westmoreland County Conservation District, Mrs. Cortileso replied that this is the agreement that the Township signed last month in regards to the Conservation district reviewing storm water management plans that are submitted, this letter was stating that said agreement has been accepted by the Conservation District.



Paula Gregg, 2513 Greensburg Road, wanted to go on record in regards to proposed Ordinance #3-2014, she deems that this area is her back driveway, whether this passes or not and she does agree with the Solicitor that this is a civil issue. Mrs. Gregg stated that once again all of the right of ways were given up and any neighbor who has an issue can take her to civil court. She also hopes that if said Ordinance does pass that she does not see any violations on her property. Supervisor Walker stated that the Solicitor has ordered the records on the previous court case from years back. Mrs. Gregg stated that she will also challenge that order due to changes of the present time and the costs she has paid. Mrs. Gregg went on to state that the Fire Department has no problem down there even though she has repeatedly asked for the Fire Company to bring a truck down for a trial run but as of date they have not, and she also stated that there are other areas in the Township that Emergency Vehicles can't get to. The Solicitor asked Dave Knox, EMC, if he has had a chance to look at this situation, Mr. Knox, replied that he did write a correspondence on this on he is just not sure how old this bridge is and he would not drive a vehicle over it and cannot access the road.

Mrs. Gregg stated she had to pay for the drainage issue on her property then someone should probably pay for the inspection of the bridge. The Solicitor asked the Engineer to look at the bridge the Engineer replied that he will not render an opinion on the bridge. The Solicitor stated he will get down there to look at the other end of the Lane. Mrs. Gregg stated there are about 50 bridges in our area to cross and everyone gave up right of way.

Leon Yurkin stated that at the Budget Meeting the Fire Chief, Brian Fitch, was asked if there was a problem he stated he could not cross the bridge. Mrs. Gregg stated that this needs to be looked into to see whom may repair this and she has taken pictures of other bridges cause there are others that are in disrepair and this may become a whole another issue and it will affect everyone. Mrs. Gregg asked who owns the bridge and that every other bridge should be looked at, she had to take the hit with the drainage issue, every property should help pay.

Carol Magill, 2114, Swank Lane, stated that this is not a personal issue, and stated that she did not mention any names and stated ask the lady from the newspaper she is right there. Mrs. Magill went on to state that due to a drain being clogged is no reason to block off a road and if she has to she will block off her end of the road the gas line will be removed and no one will be able to use her drive way and she will also have her mother's drive way paved. Solicitor Yakopec stated this issue will end up in court due to being a civil matter, as the Township Solicitor he just wants to make sure people have access to Emergency Vehicles no matter how one way or the other.

APPROVAL OF THE MINUTES

Motion made by Walker, second by Dombroski, to approve the minutes of the November 3, 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 November. Supervisor Dombroski stated some of the work performed was finishing the berm work on Myers Drive, cutting trees due to the damage from the beetles and spreading anti skid.

POLICE REPORT

There were 78 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 and has been approved. Monday he will be at Westmoreland County to discuss approval, modifications and work on the presentation of the plan. Walker asked about the generator grant if the Township has to reapply for next year? Mr. Knox stated he did not believe so that if there was a need for it we are on the list.

ENGINEERS REPORT

Mr. Kerchner reported that the final payment request for the Lower Drennen Road Slide has been requested in the amount of \$27,377.00, he did recommend payment, however, with the condition that the final 2 documents are completed and that a 2 year maintenance bond and consent of surety is received. Mr. Kerchner also stated that this project was paid by the County with no cost to the Township.

Walker made a motion second by Uhler to pay the requested amount with the conditions as set forth by the Engineer. Motion passed 3 - 0

Mr. Kerchner addressed the letter from Westmoreland County in regards to the 5 year County Plan, this plan has to be updated every 5 years in order for the County to receive funds from HUD, and they invited us to attend the meeting so that any concerns of the Township could be addressed and that he did complete an on-line survey request in regards to this plan.

Mr. Kerchner stated that after a discussion with the Solicitor he feels a bond in the amount of \$110% is needed for Oak Lake Road Project, this would protect the Township in case for any reason the company would go out of business or just never finishes the work it would provide the Township with some source of revenue to finish the work if needed.

PLANNING COMMISSION – No report

SOLICITORS REPORT – The Solicitor stated that he has done research with the County on whether the issue of putting Oil and Gas drilling on a referendum and this cannot be done it is not a referendum issue. However, the County will look into this more by asking the County Solicitor is this would be permissible.



Solicitor Yakopec stated that the Board will have to make a decision, the PA Supreme Court says it's an Industrial Zone, can leave as is which would knock out a lot or consider rezoning to permit this, he does not have all of the options, he would like to meet with Dave Kerchner and will focus more on this issue this month and have an answer next month. The Solicitor also went on to state that he read an article where it quoted "Ron Slabe as an anti-fracking specialist" and also that the Zoning Hearing held tonight in Allegheny Township has been continued.

NEW BUSINESS

A motion was made by Walker second by Uhler to table Ordinance #3 of 2014.

A motion was made by Walker second by Dombroski to approve Resolution #9-2014, adopting the 2015 annual budget and the budgets for the special funds.

Motion passed 3 – 0

A motion was made by Walker second by Dombroski to set and advertise the Annual Organization Meeting for the year 2015 as January 5, 2015, beginning at 7:00 pm

Motion passed 3 – 0

A motion was made by Walker second by Dombroski to accept the 2015 animal control agreement with Hoffman Kennels.

Motion Passed 3 – 0

A motion was made by Walker second by Dombroski to send Dave Kerchner and any Supervisor to attend the Five Year Plan Meeting hosted by Westmoreland County on January 13, 2015 at 10:00 am in Unity Township.

Motion Passed 3 – 0

A motion was made by Walker second by Dombroski to adopt Resolution #10-2014, to enact an Agility Agreement/Resolution with Penn-Dot in case of any shortfall in needing road salt or road materials, contingent upon the Solicitor's review and recommendation.

Motion Passed 3 - 0

A motion was made by Walker second by Dombroski to adopt Ordinance #4-2014, to reaffirm our participation and compliance with the Intergovernmental Cooperation Act and UC Trust Agreement, contingent upon the Solicitor's review and recommendation.

Motion Passed 3 – 0

A motion was made by Uhler second by Dombroski to pay all bills and accept the Financial Report.

Motion Passed 3 - 0



COMMENTS FROM THE PUBLIC

Ken Slahtovsky, 6201 Schafer Drive, asked if the issue in regards to the Oil and Gas being Industrial is the Solicitor opinion. Solicitor Yakopec stated that the 3 judges say it's an Industrial Process not use because they are incompatible. Mr. Slahtovsky stated that drilling and fracking has been going on for years and a few people are poking their noses and he is getting tired of it.

Supervisor Walker stated that the Supervisors has a very informative meeting with Huntley & Huntley. Mr. Slahtovsky stated they have been to all residents and spoke with them why not take their word for it. Solicitor Yakopec stated that no matter what there will be a challenge either way, in RA or Industrial, if the Township puts it in Industrial Zone or change the RA areas to Industrial they would need to keep it out of high volume areas, for example you could not go into Chappeldale, better in RA where there is tons of acres.

Supervisor Walker stated he has tried to figure out how to do it, by not allowing spot zoning but to allow this legally and he is very excited about it. Mr. Slahtovsky stated his farm is relying on this for the future of his family. Supervisor Uhler stated he will not comment on this he will wait on legal counsel. Supervisor Dombroski asked will we need to rezone? The Solicitor stated that changing zoning definitions or rezoning a certain area then worry about spot zoning, all of this is fact specific, the larger the area the better. The Solicitor stated spot zoning 10 acres more or less. Supervisor Dombroski asked what about the communities who do not have Zoning they have no issue. The Solicitor stated you could also wipe out Zoning. Supervisor Uhler stated in 2009 when zoning was done he thought that this cleaned up the spot zoning so leases were able to be signed. Supervisor Dombroski stated that the main area rezoned was Baxter Drive due to the residents having animals and Schafer Drive because the farm was already there. Mr. Slahtovsky stated he wants more than a lease he wants a well so they he can provide for his family and also the Township will make money.

Frank Ross, 1128 Markle Road, stated that this would be dry gas, nothing like Washington County with dry gas it is not a continuous it would be shipped by pipeline would not have all the truck traffic.

Supervisor Walker stated that Huntley & Huntley said the richest reserve of gas is at the Point in Pittsburgh, every foot in Upper Burrell has gas under it and we are perfect for it. Solicitor Yakopec stated that 2 Supreme Court spots are up so next year there will be 2 new judges and this will all work its way back up. The Solicitor went on to say that existing, not put in Industrial Use with a Residential use, pretty clear on this, then what do you do. Does not say existing zoning cannot be changed it is up to the officials & residents, and at some point the 3 Supervisors will have to vote and there is still an issue of eminent domain, a taking issue, spot zoning issue, still need to figure it all out. Walker stated the Supreme Court Ruling is not a directive or command its persuasive must think about it.

Solicitor Yakopec stated plurality means all judges agrees, 3 out of 7 – Industrial Use. 1 said due process, 2 descending, 1 in jail.



Leon Yurkin, stated he thought the final vote was 4 – 2, there is a 162 page opinion on this, and that 2 other judges turned it back to lower court and a gag order on medical conditions and private water wells but public have to. Mr. Yurkin went on to state that it's all about making money, but what about when it affects your neighbor whether they 1 acre or 100 you still have the same rights. Huntley & Huntley wrote a letter in July or August he saw where wells were going on Horvat and Living Branch Ministries, the summer before that they claimed they had a signed lease from Mrs. Johnson which she stated to Mr. Yurkin they did not. Huntley & Huntley tries to put neighbors against each other, and once you sign a lease you will never own it. Some resident replied that they are non-surface leases.

George Richard, 350 Hunter Hill Road, if Huntley & Huntley are allowed to come in and drill what will stop the competitors from coming and you can't refuse them, and he does not want all the other companies here. Walker stated that Huntley & Huntley has it already tied up with leases they do not take up all of the 16 mile square radius but a good bit and it is a very clean plan with laterals that go about 1000' which is almost 2 miles and each well has a spider well that goes out. The Chesapeake leases expire in 2015 and believes those have been taken over by Huntley & Huntley. In the beginning it did happen that wells were everywhere but with technology advancing there are no more pools or flaring.

Mr. Slahtovsky asked about a public meeting with Huntley & Huntley? Walker replied yes they will come and speak to the residents. Joyce Ewing stated that a resident showed a postcard where a meeting was being held on December 3, 2014 at PSNK from 6:00 – 9:00 pm inviting Upper Burrell, Lower Burrell, Allegheny Township and Washington Township residents to attend a meeting being held by Huntley & Huntley. Walker stated that they will Huntley & Huntley come to the Township Building, which will be a controlled meeting. Mr. Yurkin stated it's like comparing Kitty Hawk to the Space Shuttle and did you know that 46 families in South Butler have lost water. Mr. Yurkin asked if we know how many acres are zoned Industrial. Walker stated that Alcoa has at least 2000 acres plus the land in the Industrial Park.

Dave Knox, 1307 Oak Lake Road, asked why is Consol Energy accessing White Cloud Road and Oak Lake Road which is 2.2 miles when they could go on White Cloud to Willowbrook which is a shorter distance, Dombroski replied due to not being able to make the turn and also believed there was a site difference. Dave Kerchner stated that Consol will be improving the road 6/10 of the mile to highway specifications from Allegheny Township to White Cloud Road with 6" of material and will also fix the drainage issue. Dombroski stated that this work has been put off until spring due to weather being a challenge.

A motion by Walker to adjourn, second by, Dombroski, meeting adjourned at 8:20 pm.

Minutes Submitted by:

Melissa A. Cortilesio

Note***

Next monthly meeting , will be held on Monday, January 5, 2015, beginning at 7:00 pm

