

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

**MONDAY, JANUARY 5, 2015, 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 –

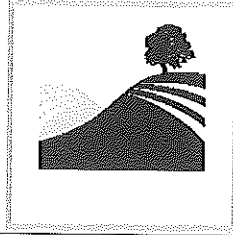
Ken Slahtovsky, 6200 Schafer Drive, asked if the motion in regards to the Zoning and Gas ordinance would be voted on tonight.

APPROVAL OF THE MINUTES

Motion made by Walker, second by Dombroski, to approve the minutes of the December 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 December. Supervisor Dombroski stated some of the work performed was cutting the Ash trees that the beetles have destroyed and minor snow removal and used approximately 80 tons of patch.

POLICE REPORT

There were 73 calls for the month 22 of which were traffic offenses and for the 2014 year there were 1116 total calls a majority of 282 calls were traffic offenses.

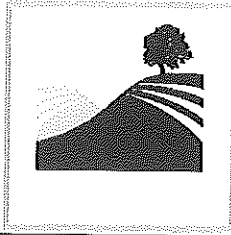
EMC REPORT - Mr. Knox stated that the Westmoreland County Hazardous Mitigation Plan has been completed and submitted to PEMA and FEMA and has been approved. He did review the plan with Westmoreland County and they said it was acceptable. Mr. Knox is requesting to adopt the plan at the February meeting. Supervisor Walker asked about the generator grant, Mr. Knox replied that it is on the list and once activated then would know.

ENGINEERS REPORT

Mr. Kerchner reported that all the paperwork has been submitted for the Lower Drennen Road Work and from this point forward everything will be submitted from the County.

PLANNING COMMISSION – No report

SOLICITORS REPORT – The Solicitor stated he had hoped to have a proposal on the Oil and Gas Ordinance. He stated that as he looked at this Oil and Gas Ordinance it's a pretty good Ordinance given the fact that it keeps it away from high Residential areas, you could place it in an Industrial Zone only which is what Supervisor Uhler wants, would also have the opportunity to possibly create a mixed use district in the Agriculture zone given the fact that according to the American Planning Association, as the economy continues on the path of rapid deindustrialization we are finding the system developed early in the last century cannot meet the needs of our changing community, strict segregation of land use continues to stand in the way of developing modern mixed use neighborhood and districts, zoning for such standards for the blending of residential, commercial, cultural and institutional and industrial uses. We also have in our current RA zoning district mineral extraction, which would coal mining, strip mining and coring and of those types of uses which are clearly industrial uses, those already exist in that Industrial Zone. You could modify this somewhat as far as removing the Residential from RA for the purposes and could also create an overlay district which is what Murrysville and Penn Township have which is a floating district which only goes over top certain districts, we may have to change the purpose of some of the districts because right now we allow a conditional use in the RA, Public and Industrial Zone, he wants to know what the pleasure of the board on how to proceed. Walker stated let's wait till our vote.



NEW BUSINESS

A motion was made by Walker second by Dombroski to table Ordinance #3 of 2014. Walker stated that the Board is still not ready to make this decision, the Solicitor has looked into the legalities of this. The responsibility of the Township keeping the road open that is a private drive and this is really beyond our control Walker would like to see this go to the Courthouse in Greensburg. We have 2 ways of enforcement in the Township, 1-Criminal which comes under the Police Department, and the civil which comes under our code enforcement officer and neither one of them are comfortable in enforcing this ordinance. This will be tabled once again while the Solicitor is still working on this, Solicitor Yakopec stated he will have this for us next month and Walker stated then maybe we will be prepared to do something with this next month.

Ron Slabe asked how many times can an issue be tabled? The Solicitor replied you can just keep it on the table you don't have to bring it back up but in order to pass this Ordinance you would have to advertise it again. Slabe asked is there a time limit on it from the first time it was introduced? Walker replied he means before voting on it. The Solicitor replied no time limit you can just let it sit there unless there is a motion by someone asking to bring it off the table.

Mr. Yurkin questioned the time limit since it has been advertised, Walker and Yakopec both stated we are past that time point of 60 days and we would need to advertise it again.

Motion passed – 3 – 0 With the Solicitor stating it could not be passed.

A motion was made by Walker second by Uhler to approve the Wheels for Wishes benefiting Make-A-Wish for the Township to host a nonprofit link on the Township Website.

Motion passed 3 – 0

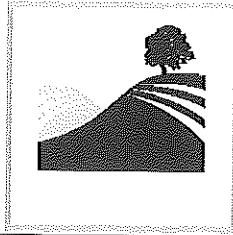
A motion was made by Walker second by Dombroski to send a letter to Eli Evankovich in regards to the extraction tax on the Gas Well Companies and how this will affect our Act 13 Impact Fees.

Motion Passed 3 – 0

A motion was made by Walker second by Uhler to amend the current Township Gas and Oil Ordinance to state, "Unconventional Oil and Gas Wells are permitted as a Conditional Use in the Industrial Zoning Districts only and to advertise the same". When stated all in favor, Dombroski and Walker replied Naye.

Motion failed 2 – 1

Walker stated let's have a discussion. Ron Slabe stated he would like to ask the solicitor first of all two months ago in October it was passed 3 – 0 to basically amend the Ordinance to the recent PA Supreme Court Ruling in December, what is it that has 3 to nothing and you Steve were in favor of doing this at that time, what has changed your minds? Slabe went on to state how this is a constitutional issue. Solicitor Yakopec stated as Mr. Jagr has said, you must balance the obligation to protect everyone's rights with the competing other interest. That is a quote. Slabe asked what does that mean? The Solicitor replied you must try to balance things out, the court never said this must go into an Industrial Zone. Mr. Slabe went on to state that PA Supreme Court specifically states that this is an Industrial process in fact a heavy industrial process and that from every indication that it says or indicates that it does not belong in a R or RA area it stated this specifically. That when you say the court does not say it



specifically the court gives us enough leeway to use some brain power to deduce logic that this is as have industrial process that this does not belong in a R area nor RA but certainly does belong in an Industrial area. The logic tells us that, court clearly states this, gives a constitutional duty, we have heard time and time and from the advocates we want our money, our money, we here nothing about the health, safety of our residents, hear nothing about the contamination of water, pollution of air, the job of the board is to protect the public not how to make money and the court clearly states when it comes to economic gains that does not in any way take away our constitutional rights that comes first, gains come second or third. Walker stated he does not believe they are violation anybody's constitutional rights by putting a well pad in the middle of a 100 acre farm. Slabe stated about the rude behavior of the gas mob and they need to control this. Someone else also stated that is not right for him to state that and this needs to be controlled, referring to someone yelling at Slabe and telling him to sit down and called him a name. Slabe this is worse behavior, rude, disruptive, behavior and an argument ensued. Mr. Slabe presented some photos to the board and stated does this look like this belongs in R or RA area, do you want this in your backyard? Uhler stated he would not want this in his backyard while several residents shouted out yes they do. Slabe asked Walker how would this look at the farm next to your property? Walker replied he don't know. Please see under new business the rest of the discussion.

A motion was made by Walker second by Uhler to adopt Resolution #1-2015, making the necessary 2015 appointments.
Motion Passed 3 – 0

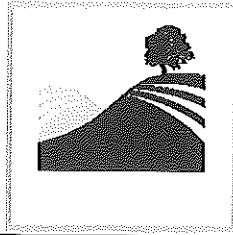
A motion was made by Walker second by Dombroski to adopt Resolution #2-2015, setting the 2015 millage rate for general purposes at .10 mills and .35 for the Fire Hydrants.
Motion passed 3 – 0

A motion was made by Walker second by Uhler to adopt Resolution #3-2015, setting the general fee schedule, costs, charges and expenses pursuant to the Township Ordinances for the year 2015.
Motion Passed 3 - 0

A motion was made by Walker second by Uhler to adopt Resolution #4-2015, appointing Melissa A. Cortileso, Secretary as the authorized representative to make requests upon and receive any and all tax information and records from Berkheimer.
Motion Passed 3 – 0

A motion was made my Walker second by Dombroski to adopt Resolution #5-2015, setting the Sewage Disposal System Fees.
Motion Passed 3 – 0

A motion was made by Walker second by Dombroski to adopt Resolution #6-2015, appointing Melissa A. Cortileso, Secretary, as the delegate to the Westmoreland County Tax Collection Committee and Greg Primm as the designated alternate for the year 2015.
Motion Passed 3 – 0



A motion was made by Walker second by Uhler to appoint Jeffrey W. Ewing as Deputy Tax Collector in accordance with Act 164 of 2014, all Tax Collectors are required to appoint a Deputy Tax Collector that acts on behalf in the event that they are incapacitated and unable to perform the duties of Tax Collector.

Motion Passed 3 - 0

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

Motion Passed 3 - 0

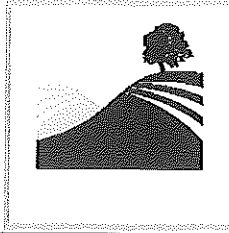
COMMENTS FROM THE PUBLIC – CONTINUED FROM THE NEW BUSINESS

Supervisor Walker stated that a lot of these things are temporary and are no longer used, like the ponds. Mr. Slabe stated yes it is now like a giant swimming pool about as large and as tall as this building here. Slabe and Walker argued over whether or not this is permanent or temporary. Walker stated in his opinion it can be done safely and well organized in the Township he listened to Huntley & Huntley's presentation and asked if they would be willing to put that on. Mr. Slabe pointed out the information is given, especially in regards to health concerns you have not considered the health concerns, he stated the entire state of New York has banned this, it is due to health issues, air pollution, explosions, and the they have not considered any of this. This is a heavy industrial process. Walker stated yes it is a heavy industrial process, Mr. Slabe stated that the court says it does not belong in these other areas and yet you are saying today it's OK. Walker stated he is saying it's OK and there is a well outlined plan and it is going to be in the middle of a hundred acres. Where is this well? Walker stated there are 4 different wells planned they are on the map. Someone asked can you tell us where they are located. Walker stated he cannot but Huntley & Huntley can, they stated they will not due to competitors.

Ken Slahtovsky, 6200 Schafer Drive, asked in Zoning is it an interpretation that the Oil & Gas is Industrial would that be correct and does it say it has be zoned Industrial only. Solicitor Yakopec stated from a legal stand point no where does it say it has to be zoned Industrial. Mr. Slahtovsky stated could you also say that farming is an Industrial use also, Solicitor replied yes you can, herbicides, pesticides. Mr. Slahtovsky stated it is all an interpretation the farms can handle these gas wells no where in there does it say it has to be zoned industrial. Someone from the crowd asked about the school bus traffic and the truck traffic would be endangering the children. The Solicitor replied that is addressed currently in the ordinance , the answer is the gas trucks do not run when the school buses do even if there is a school delay.

Someone from the crowd mentioned that with his brother they tested his water and if it was bad or did not work they fix it. Walker stated that Huntley & Huntley have never had a contamination they will be fracking a mile underground, in a 150 years of drilling don't you think there would be a record they have drilled tens of thousands wells.

George Banyas, 361 Hunter Hill Road, stated that he was promised \$8700.00 for trees which he never received a penny. Mr. Banyas stated that he has it in writing from Huntley & Huntley's president said they got attorneys 24/7 and will tie him up in court and he would not live long enough. All the dirt is still



sitting there. A resident asked how much money he makes off of this well. Mr. Banyas stated maybe about \$100 a month. Mr. Banyas stated he is just trying to make a point that he never got his money, go with the big guys, they are just the middle man. Huntley & Huntley stated this is not the forum for this issue and to please contact their attorney.

Ken Slahtovsky, asked do the concerns people have get covered under the conditional use permit?

Walker stated that is what he likes it's organized and will cover the township with 4 well pads in the entire township, who are we to stop this. Supervisor Uhler asked Walker are they in your backyard? Walker replied so what, there has been an evolution in this process and it is not bad for the township and a there is a win fall for some of these families. Mr. Slabe stated you cannot allow this because of money all of the people can get their money thru subsurface rights.

Leon Yurkin, 3603 Baxter Drive, did research on the web for 3 hours, he talked of a family who was told their water was not contaminated however the family did get sick, and they did get a settlement but there is a gag order on this case. He would also like to show Walker an open pit in Butler. Mr. Yurkin stated you are suppose to protect the citizens not make money. Mr. Slabe stated this is an issue of zoning & compatability no economic win fall.

Supervisor Uhler stated that some people would be shocked at these sites and he will stand by this, not in his backyard.

A resident asked how are they protected if there is an accident?

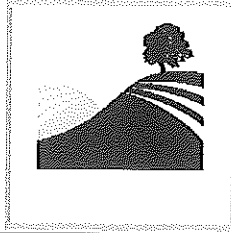
Walker went on to state what is the difference if a developer bought up this property and built 100 homes on each acre, you would have all the traffic for years with the building. Slabe stated your comparing this to a drilling process, this is the most convoluted thought.

Jim Cochran, 125 McCoal Lane, stated he appreciates everyones concern and also appreciates the windfall that could come but he has not heard of any pollution, Beaver Run has been drilling for some time and all is fine and has been, nobody wants any problems.

Ron Slabe, 516 Angelcrest Drive, stated that the #1 priority should be constitutional rights he has the right to enjoy his property and is entitled to clean air, he asked are you violating the constitution?

Frank Ross, 1128 Markle Road, stated that talking about constitutional rights, it is not unconstitutional to not allow him to get his rights.

Ron Slabe, 516 Angelcrest Drive, stated this is the kind of behavior you deal with the people of a gas mob. As long as you are not deprived of earning a living and only if the government causes this is it called a taking.



Leon Yurkin, 3603 Baxter Drive, stated that it would be 500' from your home you wont's sleep, this is a year long process can be 50 years . He knows people who were all for this including himself until he looked at it, but don't want it right next door to your home.

Amy Kremer, 1460 Keibler Beach Drive, asked about the work and demo permit that was issued to a property located at 1461 Keibler Beach Drive.

Jim Minford, 6026 Schafer Drive, feel very strongly about the 4 pads and hopes they will be close enough to Lincoln Beach these people deserve it, it irritates him that they are trying to stop the African Americans from getting this. A few resident yelled out that is absurd has nothing to do with that.

Dan Myers, 200 Barnview Drive, stated late last year there was a proposal to look at the roads in the township but was decided it was to expensive, could we look into this matter again. Mr. Myers also asked about the extra help for the Road Department.

Walker made a motion second by Uhler to have Bankson Engineers work on a long range plan.
Motion passed 3 – 0

Patricia Hagaman, Willowbrook Road, questioned about the where does the sewage go when this work is being done on the wells? Huntley & Huntley stated the water is recycled. Mrs. Hagaman stated that the tank behind her home is at least 150' x 10' tall and is lined with glorified pool liners, this is radioactive water and is coming into the air. She stated that there is no cleaning this water. Someone within the crowd stated that McCutcheon Enterprises used to dilute the water and then dump into the Kiski River, however they have been told by the pollution plant they can no longer do this. Huntley & Huntley stated they will never convince people, it is an emotion not a fact.

A motion by Walker to adjourn, second by, Dombroski, meeting adjourned at 8:19 pm.

Minutes Submitted by:

Melissa A. Cortileso

Note***

Next monthly meeting , will be held on Monday, March 2, 2015, beginning at 7:00 pm