

MINUTES
REGULAR MEETING OF THE
UPPER BURRELL SUPERVISORS
WEDNESDAY, JULY 6, 2016, 7:00 PM
MEETING ROOM, 3735 - 7TH STREET ROAD

Board of Supervisor's Chairman, Ross Walker, 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: **Ross G. Walker, III, Chairman**
 Peter F. Dombroski, Jr. Vice Chairman
 Allen E. Uhler, Supervisor

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

COMMENTS ON AGENDA ITEMS – None

APPROVAL OF THE MINUTES

Motion made by Walker, second by Dombroski, to approve the minutes of the June 1, 2016, regular meeting of the Township Supervisors.
Motion passed 3-0.

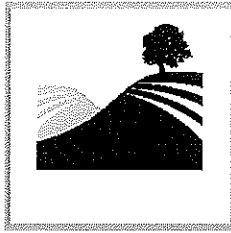
CORRESPONDENCE

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 June. Most of the time was spent patching, mowing, trimming, cutting branches and making minor machinery repairs.

POLICE REPORT – 90 calls, concentrating time on speeding on Rt. 780, couple burglaries and theft issues and scam calls. Please watch out for skimming devices when using a credit/debit card in machines. Chief Pate stated anytime please feel free to stop by the office to speak with him.



EMC REPORT -

Mr. Knox also stated please watch out the skimming devices. We are small community and need to watch out for everyone, also the card readers at gas stations usually have a sticker across the device if that is broken then chances are it has been tampered with. Working with homeland security to make updates to make things more user friendly.

ENGINEERS REPORT

Mr. Kerchner stated that the fieldwork for the Long Range Paving Plan has been completed and he is hoping to have a presentation ready for the August meeting.

Mr. Kerchner stated that the Preliminary Drawings for the Dirt & Gravel Project on Whitten Hollow will be presented to the Westmoreland Conservation District.

Mr. Kerchner also stated that Myers Drive bid documents are done and waiting to get the scope of work from the contractor who will be doing some of the work.

Mr. Kerchner stated he talked with Westmoreland County in regards to the 2016 CDBG project and the application is still in line for 2017, however we are still short 1 income survey.

PLANNING COMMISSION –

Received a subdivision request from Alcoa in regards to subdividing 3 parcels, Parcel 5 (185.88 acres) Parcel 6 (11.69 acres) and Parcel 7 (21.84 acres).

Scott Chermak's comments – Parking needs 10' setback and 5' setback is shown. Ms. Hopkins noted that an adjacent parking lot not shown on the plan is in close proximity requiring the 5' setback. Existing building parking spaces are 57 and 81 spaces are required. Access to Parcel 6 building has not been demonstrated. Ms. Hopkins indicated that access will be provided to Parcel 6 from White Cloud Rd.

Tom O'Brien indicated that a variance would be needed for these issues if Alcoa chooses to leave the plan as submitted and also stated that the driveway needs to be shown on the subdivision plan. The Commission has tabled this request until it is determined if a variance is required.

At this point in the meeting Alcoa Representatives spoke about this request stating they originally did need 2 variances, however have since revised the drawings and now only require 1 variance on the amount of parking spaces needed. Ms. Ford, Real Estate Manager for Alcoa stated that the company was splitting into two publicly traded companies, one named Alcoa Corporation containing its legacy aluminum operations and the other named Arconic containing its higher-value aerospace and automotive businesses.

Ron Slabe asked the reason for dividing the Company. Ms. Ford replied this was a corporate decision not a local decision. Due to the separation of the 2 companies they cannot share property, have to be



two separate and distinct companies. This will not affect present taxation and the County will have to create new tax parcels and should not be any change.

Leon Yurkin inquired about Parcel 6 parking lot, asking if it will be shared?

SOLICITORS REPORT –

Solicitor Yakopec stated they Supervisors met in executive session for personnel issues prior to the meeting. The solicitor stated that Township will probably be approached by Burrell School District and the City of Lower Burrell in regards to the funding of the School Resource Officer, the proposals have not changed and Upper Burrell has never presented with that proposal. Walker how will this be presented? Yakopec stated probably the Mayor, it deals with longevity and health care for the SRO Officer. Dombroski stated why can't these funds needed be part of the school taxes, they raise taxes for other necessary things, if that's a necessary thing budget for it or raise the taxes. Yakopec stated that's an issue you will need to discuss with the School Board and the City of Lower Burrell. Uhler stated we only have 14% of the kids.

Supervisor Uhler stated at this time he would like to go on record asking about the legal opinion given from the Solicitor in regards to Supervisor voting. Mr. Uhler stated he would like a copy of the letter from the PA Ethics Commission from the Chief Counsel on the legal opinion provided to him. The Solicitor stated he did not ask for advice from Counsel, the Chief Counsel had already told Walker they could not issue an opinion at that point in time. Uhler asked did you have a verbal or informal opinion that you discussed with this person? Yakopec replied he did not. Uhler stated at this time he wants Ross Walker to recuse himself from any decision making on the Oil and Gas Industry.

Walker stated this is not going happen, Uhler stated you will take that up with the Ethics Commission. Walker stated he would be glad to, he has already spoke with the Chief Counsel of the Ethics, Uhler asked who did you talk to, Walker stated Robin Hittie, Uhler again stated he wants the letter provided. Walker stated she will not give advice cause Walker has already been involved in discussions and advisory opinions are only provided for future actions, tha'st what Hittie told Walker. Uhler stated I am asking you from here on out to recuse yourself, Walker stated he is not going to do so. The Solicitor replied Walker has the ability to rely on his opinion. Uhler stated he has your ability but this is called State Ethics Commission, he spoke to them. The Solicitor stated in his opinion based on that the way it is read if relied upon the penalties contained in Section 103G he believes of the STate Ethic Act there are no penalties at that time because he relied upon the Solicitor's opinion. Uhler asked the Solicitor if there is any kind of verbal advice it has to be in writing from the Chief Counsel that's coming from the PA State Ethics Committee, a letter provided. Walker stated she is not going to give him a letter, Uhler stated until then it is a conflict of interest, Walker stated no conflict, Uhler stated definitely a conflict and a violation of PA Ethics Commission. Walker stated "then sue me". The Solicitor stated that's not what the state law says. Uhler stated he spoke with them, the Solicitor stated you can speak to them, and asked if him gave them a copy of his opinion, the Solicitor stated that came up later on, go ahead and give it to them if you want. Uhler just wants provided a copy. Walker stated there is not letter cause she will not write one due to Walker previously discussing gas issues advisory opinions are only provided for future actions. Walker stated this is the end of the disuccusion, Uhler stated until you can provide me a copy of that letter you have to recuse yourself. Uhler stated the same would go for him if



he had any royalties or signed leases and as far as Pete he is able to go because its's on a relatives property. Walker stated I don't even know what your asking for. Uhler stated he also has a legal opinion, Walker stated then provide it to me, Uhler stated why would I when you won't provide me your copy, Walker stated you have a copy of the legal opinion, UHler stated yes from the Solicitor not from the PA Ethics Commission that's where it needs to come from. Walker stated this county is run on legal opinions. Uhler stated the state super cedes. Slahtovsky stated you asking us to follow state guidelines but yet you want to put greater setback than the state wants, you follow guide lines. Uhler stated call the State Ethics Board and see what they tell you. Walker stated he did call the State Ethics Board, Uhler started provide me then with what you have, that newspaper clipping means nothing to him. Steve's opinion is taken off of other opinions, they are copies of all other communities. Uhler stated there are other communities such as Penn Twp. who have 2 Supervisors who recused themselves. The Solicitor replied he did not know about Penn Twp. Uhler again stated he wants a copy of that letter at some time. Walker stated Robin stated she is not going to give him an opinion.

Uhler stated the determination is to be made by the Ethics Commission and there are exceptions to the rules, you cannot just do them on the guideline of what you feel may be right or wrong, do you understand Ross? Walker replied he does not. Walker stated go ahead and do what you want, Uhler stated we will take it up with them. Walker asked Yakopec if he was satisfied with the opinion he wrote, Yakopec replied absolutely. Uhler stated that was never even agreed upon to have Steve look into this decision, it was suppose to go in front of the Ethics Commission from his knowledge, Steve has never, we never made a motion to do that so look at the money we just now put out for that. Walker stated we would have never put money out if you had not challenged him. Uhler stated go by the books and your in violation right now. Walker stated he is going by the books. Walker stated, we have not even had a vote. Uhler stated why would you have him put together a legal opinion then. Uhler stated there was never nothing brought to his attention to have Steve put a legal opinion together there was an easier way to get this done, how many hours do you have into this, Yakopec replied he was not sure, Uhler stated I have seen it and I am not signing off on it. Dombroski stated that was discussed at that same meeting. Uhler stated 18 pages later, legal opinion, this was suppose to go in front of the Ethics Commission. Uhler stated there is no way the amount of money the Township has into this you should be worried, this could have gone thru the state to make this determination. Walker again stated the state would not give him a determination. Uhler stated they have to even if it is verbal. Walker replied Robin has given him a letter, Uhler replied show him the letter, he asked 3 months ago after a meeting to Steve to provide him a copy of this letter, Yakopec replied he has never seen the letter. Uhler stated you said you were going to come up with something not this legal opinion. Walker quoted the letter he sent to Robin Hittie. Uhler asked why he did not supply the rest of the board members with that, Walker replied he did not think it was necessary. Uhler asked is that public information? Uhler asked what was Mr. Hittie's reply, Walker could not find a copy of it.

Amy Hopkins, Morris Knowles, stated there are only 3 Supervisors, if he abstains is 2 a quorum? Walker replied 2 is a quorum. Walker stated here is the letter, Uhler asked to see it, Walker began to quote then realized that was the letter from the Solicitor.



NEW BUSINESS

A motion was made by Walker second by Dombroski, to accept Exhibit "A" Winter Municipal Snow Agreement.

Motion passed 3 – 0

A motion was made by Walker, second by Uhler, to enter into the 2016/2017 Winter Season Pre-Buy Program with Ross Welding. (let the record reflect that Ross Walker has no financial interest in this, Uhler stated all he is trying to do is avoid a conflict of interest and violation with the state). Frank Ross asked Uhler what is going to happen when he is in violation with the state by trying to take away their rights, Uhler stated there are procedures to follow. Uhler stated your in business are you always compliant, Ross replied yes, Uhler stated must follow guidelines. Ross stated that's what he is doing but it's not what you want.

Motion passed 3 – 0

A motion was made by Walker , second by Uhler to grant the request of \$650.00 to Betty Beestrice for the 2016 Halloween Celebration.

Motion passed 3 – 0

A motion was made by Walker, second by Uhler to accept with regrets the resignation of Part Time Patrolman Joseph Albaugh.

Motion passed 3 – 0

A motion was made Walker, second by Uhler to grant the request of Joyce Ewing to be exonerated from the 2015-2016 Per Capita Items, (225 uncollected).

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

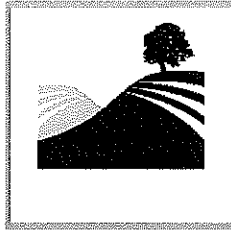
A motion was made by Dombroski, second by Uhler to pay the \$2,000.00 to Redevelopment Authority to have 2 homes demolished. Mr. Myers asked if these 2 properties have a lien already placed on them, he believed a few months the Solicitor was asked to do so for the back taxes. Steve replied no. Once the Supervisor's agree to participate in the program the properties will be have a lien placed against. Uhler so this will wait until next year, Yakopec replied no, once he hears from Missy he will put the liens in place.

Motion passed 3 – 0

A motion was made by Dombroski, second by Uhler to have the Solicitor lien these 2 properties for the cost of demolition and any other taxes, etc. that may be owed.

Motion passed 3 - 0

A motion was made by Walker, second by Uhler to hire Perry Sciulli as Part Time Patrolman contingent upon passing the required MPOETC testing.

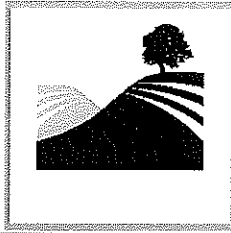


Motion passed 3 - 0

OPEN TO THE FLOOR

Dan Myers, 200 Barnview Drive, inquired about the request made at last month's meeting in regards to the Burrell School District attending the meeting and asking for financial help for the SRO Officer. Mr. Myers stated one way to solve the issue is to put this on a referendum vote and let the residents of the township decide if we should help pay for the SRO or not. Mr. Myers stated due to poor planning should not be the townships fault. Lincoln Beach asked for help and we did not have any money to help them. Mr. Myers also asked if the 2 properties mentioned about for demolition have they had a lien put on them for back taxes, he recalled several months ago this asking to be done. Yakopec replied no. The Supervisor's requested they have a lien for the demolition be placed on them and back taxes.

Ron Slabe, 516 Angelcrest Drive, Busines of Ross recusing himself, when that was first brought up, Steve strongly said he would make sure he recuses himself and abstains from voting, so now basically what he has read in the paper Steve is reversing what he said. Steve replied no, what it was, if it had a direct financial impact on him then he would not allow him to vote at that point in time. Slabe asked what do you consider a direct gain, example- if there were a conditional use that came before this board and as part of that use Mr. Walker property would be drilled underneath to where he would get the royalties at that point in time Mr. Walker would have to recuse. Slabe asked do you agree with that, Walker replied yes I do if it have a personal effect on him. Slabe stated your ability to collect royalties would have an effect and Walker replied yes if it was on his property. Slabe stated since it a subsurface lease do you think it is not applicable here, Walker stated you are talking about 2 different things. Dombroski stated his understanding is that if Ross and his neighbors have lease with the Gas Co. and they all are being treated the same, it is the same class of people he is not being singled out specifically, if he was being singled out for a monetary gain then that would be different. Slabe went on to quote Ligonier Twp. saying there is a solicitor Michael Corins, he came out and said what the Ethics Commission said, and if he is wrong meaning in his advisement he could then have some liability. Slabe asked Steve if he is aware of his liability, Steve replied he has never read that in any opinion. Slabe went on to say that in Pulaski Twp. same situation came up, Supervisor Varano was going to have a well drilled on his property and another Supervisor owns property near by part of the where the gas would be place, the Ethics Commission in 2 opinions, quoting, as to each of the 2 supervisors who have signed natural gas leases with Hillport, the Twp. Supervisors would have a conflict of interest under section 1103A, the Ethics Act, under conditional use, Steve stated I just said that yes if it was on his property he would have to abstain because he has a direct interest. Slabe stated that basically you are saying you will abstain on this matter, Dombroski replied no that is not what he is saying. Walker stated of course he would recuse his vote if it were gonna be an immediate money to him, that would be like if he owned a hardware store and he had everybody from the township by hardware from him. Slabe asked what will you not recuse yourself from then, Walker replied a general vote on oil & gas. Slabe replied so in other words if it deals with the conditional use of some sort on your property for monetary value you would recuse yourself, Walker replied he would not vote on something he is not allowed to. Dombroski stated if it was specifically his property only, and does include other people he can vote on it because he is not going to single himself out. Slabe stated so if you have unsavory band of characters banding together to plot a



money making scheme that would be ok? Steve replied I do not know what your talking about. Slabe replied you said a sub group, so if this group gets together and plan on making money together this is ok? Dombroski replied Ron your reading too much into this and your making shadowy accusations and it's a bunch of bull. Slabe replied he just wants the people to understand, Dombroski replied then don't beat around the bush. Slabe stated this whole issue came up because of signing a lease, you know when you are an elected official you should not even have improprietary and going by that alone you should be able to recuse yourself from all oil and gas voting. Walker stated he disagrees with him and he has asked the State Ethics Commission and the Solicitor to advise him. Slabe stated he has the info from Pulaski Township ruling, Walker stated Pulaski Twp. is not Upper Burrell, different circumstances, Slabe stated he thinks we wall want the same stake.

Lou Arrico, Huntley & Huntley stated if you want to look into Townships who have the same issue look at Murrysville, they have a Council person who not only consults for the Gas Co. and also has 2 shallow wells on his property and has not recused himself.

Ken Slahtovsky, 6200 Schafer Drive asked about the meeting next month if that EIP was a state organization or a private organization. Mr. Slahtovsky asked who request they come, Uhler stated he did and will get info on them and get it to Mr. Slahtovsky. Ken asked is this just one lady, Uhler replied he cannot answer that, Ken wondered is this going to be opinion or fact? Slabe stated it is private.

ADJOURNMENT

Motion made by Walker, second by Dombroski, to adjourn, meeting adjourned at 8:19 p.m.

Minutes Submitted by:
Melissa A. Cortilesio

Note***

Next monthly meeting, will be held on Wednesday, August 3, 2016 beginning at 7:00 pm