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**MINUTES**  
**REGULAR MEETING OF THE**  
**UPPER BURRELL SUPERVISORS**  
**WEDNESDAY, MARCH 2, 2016, 7:00 PM**  
**MEETING ROOM, 3735 - 7<sup>TH</sup> 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**

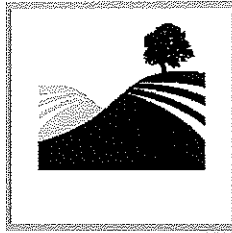
**Also present:** David Kerchner, Engineer  
                          Melissa A. Cortileso, Secretary  
                          Stephen Yakopec, Solicitor

**COMMENTS ON AGENDA ITEMS –**

Ken Slahtovsky, 6200 Schafer Drive, stated he attended a meeting held in Murrysville in regards to Marcellus Shale, the PA DEP was there to give a presentation and Mr. Slahtovsky would like to have the PA DEP come to Upper Burrell Township and speak with the residents. Mr. Slahtovsky stated that Supervisor Uhler was also present and he did get the representatives from the DEP business card and asked that Mr. Uhler contact them. Mr. Slahtovsky stated he thought the meeting was very informative and Supervisor Uhler if he felt the same. Uhler stated his concerns are that the DEP do not have enough staff and they are very far behind on the electronic filing of paperwork. Supervisor Uhler stated he will get the information to the Secretary and have her set up a public meeting with the PA DEP.

Mr. Slabe 516 Angelcrest Drive, stated last the month he raised the reasons for his concerns on the Marcellus Shale setback issue where he talked about 7 – 8 different studies that have been done on this issue, all stating that the closer you live to a site or compressor station the greater the health risk. Mr. Slabe stated that just that morning he attended a meeting at the Pittsburgh DEP office where the "Moms of Clean Air Force" presented their argument that the greater the setback the less danger.

Mr. Slabe stated the setbacks are not adequate enough to protect the public and we need to do more to protect children's health. Mr. Slabe stated no studies show 500' setback is good, the industry pulled this out of the air no scientific data to prove so.



Leon Yurkin, 3603 Baxter Drive, asked Supervisor Walker if he remembered Stephanie Halowitz, and how her children all got sick due to her water being contaminated? Also Mr. Yurkin presented an old newspaper article which referred to "Bad well water in Upper Burrell blamed on drilling". Mr. Yurkin stated his sister got oil in her water along with Dan Myers. Dombroski replied that is why there is city water now available on Turkey Ridge. Walker stated this happened back in 1984 and it was conventional drilling.

Jim Minford, 6026 Schafer Drive, asked what is a setback? Is it from the house to the well and does this have anything to do with a pipeline?

Tyler Herget, 5317 Greenridge Drive, stated that it is PA Law that the minimum setback requirement is 500' that has been an increase in 200' from 2013 and this setback was not just pulled out of the air. Mr. Herget stated that any safety controlled company will tell you that all that is needed for an emergency is 350'. Mr. Herget stated he also attended that meeting in Murrysville and the PA DEP has the toughest regulations for permits, inspections have increased and they are looking harder for potential issues and that there has been a down turn in the rate of incidents. Mr. Herget stated this can be done without issue, setbacks are not so much about safety as it is to push it out. Mr. Herget stated all sites around Beaver Run has been reclaimed and no issues with the water. Mr. Slabe requested he provide the copies of his studies to him.

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

Motion made by Walker, second by Dombroski, to approve the minutes of the February 3, 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.

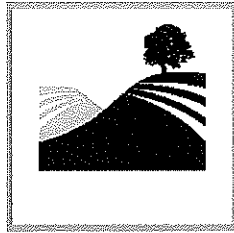
#### **ROAD REPORT**

Supervisor Dombroski reviewed the activities of the Road Department for the month of February. Most of the time was spent spreading anti-skid and plowing, making minor equipment repairs and cutting up a lot of Ash trees.

A motion was made by Dombroski second by Walker to have the Engineer prepare and advertise for the 2016 road material bids. The Solicitor asked for any public comment due to this not being on the Agenda, no comments were made.

Motion passed 3 – 0

Dombroski stated a few months ago the Supervisors agreed to get rid of the old Crown Vic. The car the Road Department used for years as a parts getter, Dombroski stated he received 2 phone quotes in the



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amount of \$125.00 which included picking the vehicle up, Dombroski asked if this was OK. Solicitor Yakopec stated he will check the code. Walker asked if it was too late to put in a bid.

**POLICE REPORT** – 105 calls, 26 Traffic Offenses, nothing major. Supervisor Uhler stated any questions please come and talk to the Chief.

**EMC REPORT -**

Mr. Knox stated that he would like to attend the meeting with the Westmoreland Conservation District in regards to the Townships Floodplain Ordinance. Mr. Knox stated that Infoguard who does community outreach especially to the schools on drug awareness, recently held a contest and that Burrell School District did take 1<sup>st</sup> place along with Kiski 2<sup>nd</sup>, Norwin 3<sup>rd</sup> and Franklin Regional 4<sup>th</sup> he stated the kids put the program together themselves and he was invited down to the FBI building to watch the presentations. Mr. Knox stated that there is a webinar being held on 3/8/16 in regards to ISO and maybe this is something that Scott Chermak should preview this could ultimately help residents in the Township with getting a lower homeowners insurance rating.

Mr. Knox asked if the Township could pay for him to get 500 new business cards due to his email address changing. Mr. Knox also spoke of an issue that played near and dear to his heart which was the recent shooting death of police officer is Virginia. Mr. Knox stated that we live in a rural community and he tries to watch and listen as officer are dispatched to calls he believes Upper Burrell is a close knit community and is proud to be part of it.

**ENGINEERS REPORT**

Mr. Kerchner reported on the 3 grants that were applied for thru the Dirt and Gravel Program, Turkey Ridge and Whitten Hollow stating that the Township has been awarded 1 out of the 3, this would be the one on Whitten Hollow where 4 cross drains and some other work will be done. Mr. Kerchner stated that we are still waiting on 2 income survey forms for the CDBG project, we have try very hard to get these final 2 in, if not will have to show to the County that all attempts had been made. Ron Slabe questioned as to why this erosion problem in Lincoln Beach has not been budgeted for? Walker stated that another \$50,000 to come out of the budget would be a hardship for the Township that is why we are trying so hard to get the grant. There could always be the possibility of another project coming in under bid and freeing up funds and we could get the CDBG Lincoln Beach project done in 2016.

**PLANNING COMMISSION** – None

**SOLICITORS REPORT –**

Solicitor Yakopec stated that with the crown vic it is less than \$1,000 so no bids or advertisement was needed due to the motion being made several months ago to sell or scrap the vehicle.

Solicitor Yakopec stated that at the end of the meeting an executive session will need to be called to discuss a personnel matter. Yakopec also stated that has happened with the Welsh Leed's World appeal suit as of yet they are going to have to give oral arguments and the court will want to speak with all 3 councils.



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## **NEW BUSINESS**

A motion was made by Walker second by Dombroski, to allow the Westmoreland County Elections Bureau use the Township Building on Tuesday, April 26, 2016 for the Primary Election.

Motion passed 3 – 0

A motion was made by Walker second by Uhler, to grant the 2016 Easter Party allocation to Betty Beestrice in the amount of \$650.00.

Motion passed 3 – 0

A motion was made by Walker second by Dombroski, to exonerate Joyce Ewing, Tax Collector, from collection the 2015 Real Estate Taxes which have been returned to the Westmoreland County Tax Claim Bureau in the amount of \$8,328.83.

Motion passed 3 – 0

A motion was made by Walker second by Uhler, to execute by proxy form the vote for election of Trustees to the Municipal Risk Management Workers' Compensation Pooled Trust Board and participate in such other business matters as may be presented at the business meeting for the purposes of having a quorum to conduct appropriate business.

Motion passed 3 – 0

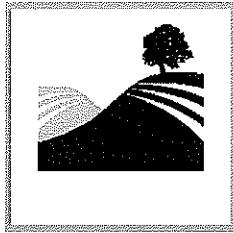
A motion was made by Walker second by Dombroski to set up the meeting with the Westmoreland Conservation District to discuss the Floodplain Ordinance.

Motion passed 3 – 0

A motion was made by Walker second by Uhler to accept and enter into the Dirt, Gravel and Low Volume Road Maintenance Project Agreement between the Westmorland County Conservation District and the Township contingent upon the Engineer's recommendation/approval.

Motion passed 3 – 0

Supervisor Uhler asked the Solicitor we have no setbacks in the Township, defensible is 500' – 1000', Tyler stated it is 500', Uhler stated we can go up to 1000', the Solicitor replied I believe so due to the fact that Zoning is usually within the local province of the Township from a zoning prospective. Solicitor stated there could be a challenge from the Industry that says DEP says 500' already have a court case that says that's impinging against the local powers in Zoning of the municipality that is why it is his opinion that is defensible up to a 1000' given the fact that the DEP has said 500' and other studies have larger setbacks. Uhler also stated that for the last couple of months he has heard about Huntley & Huntley contacting landowners about 1600', there is nothing binding about this or on the books. Walker asked are you talking about Dan Myers, Uhler replied Myers & Jordan, Uhler stated we are only just hearing this. Walker stated they made a deal and neither Myers or Jordan are here so they must be satisfied, apparently the well was shifted and there is now 1600' – 1700'. Uhler stated don't you think the Township has the right to know where these wells are going and that it might interfere with other property owners. Walker stated that whoever may have problem and comes to us we will try to fix for



them. Dombroski asked if there were conditional use permits could each case be unique from another by increasing or relaxing setbacks. The Solicitor replied generally it would be the same setbacks. What Dombroski is saying is like his house is right against the border which would be a totally different situation for someone else who's house maybe in the center of the property, the distance thing does not matter much to him being he does not have much to start with so it being 250' and moving to 1000' could still be close depending on what you started with there is not an even playing field by not having an actual setback distance in general it should be specific to where the well is. The Solicitor replied the way Zoning typically works is you have a setback and that setback applies to whatever zoning district that use is in otherwise you would just have something that is floating and then it becomes discretionary with the Council, then if it becomes discretionary issue then it becomes suspect as far as a challenge is concerned you set your requirements for setbacks, if there are other reasons why that setback should be larger than those issues would have to come down as a condition, they would have to be viable reasons to extend that setback. Dombroski asked could you not use the reason that not everybody's property is cookie cutter like their neighbor according to where their structure is located. The Solicitor replied this is difficult to do, he has never seen a floating setback, there are requirements and conditions for special uses. Dombroski said what if it is 500' and it was a conditional use could it be argued that the setback could be increased, Solicitor replied you would need a very valid reason.

Dave Knox, stated that is why the Ordinance uses the word "minimum", can be greater should not be a problem only when less that is when a variance would be needed.

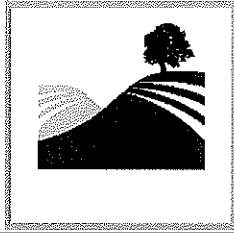
Uhler stated it took only 2 people to come here to find out about the site, how do you find out? Walker replied when the permit is applied for. You can ask the company to make public and the company has the ability to say these are our sites but cannot force them to say.

Walker stated there are 4 proposed wells and 1 of them may not even be in the Township and none are permitted yet and maybe years until so. Walker does not think we need to change our laws and ordinance, when presented to the Gas Co. they moved it. Ron Slabe stated if 1600' is good enough for these people why is not good enough for everyone in the Township when health & safety is an issue.

Frank Ross 1228 Markle Road, stated he does not even know the process of this whole issue and asked don't the 3 Supervisors' have final say. Mr. Ross stated how could 8500 wells be drilled, DEP would not let this happen.

Leon Yurkin, 3603 Baxter Drive, asked if the 1600' setback is from everyone or is this only for Dan Myers and would this mean it would be moved closer to his sister's home?

Tyler Herget, 5317 Greenridge Drive, Senior Landman, Huntley & Huntley, stated it is confidentiality issue where the wells are located. Ultimately until permitted, will determine the location. Mr. Herget asked if the Township had any seismic testing done? This testing will need done first and could result in no drilling but is so many years down the line. Mr. Herget stated that during the DEP presentation they did talk about air control studies and there are not facts on elevation of pollutants.



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Ken Slahtovsky, 3200 Schafer Drive, asked about under conditional use have to have a valid reason for increasing setback, what is the basis on this and how do you come up with this?

Ron Slabe, 516 Angelcrest Drive, stated the 500' setback is nothing more than what the industry came up with. Studies only show the closer to the site the greater risk, 500' is not enough, not just for water control but also air control.

John Ward, Angelcrest Drive, stated all of these studies, would not do a study unless it's funded and he would like to know who funded it and could it be prejudicial?

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

**OPEN TO THE FLOOR**

**ADJOURNMENT**

Motion made by Walker, second by Dombroski, to adjourn, meeting adjourned at 8:13 p.m.

Minutes Submitted by:  
Melissa A. Cortileso

Note\*\*\*

Next monthly meeting, will be held on Wednesday, April 6, 2016 beginning at 7:00 pm