

**Elizabeth Township
Board of Commissioners
Monday, December 18, 2017
Commissioners' Meeting**

Call to Order

Pledge of Allegiance & Moment of Silence

Roll Call

Commissioner Similo-present

Commissioner Saxon- present

Commissioner Kuzma-present

Commissioner Blake-present

Commissioner Rhoderick-present

Commissioner Evans-present

President Beckowitz- present

Executive Session Acknowledgement: President Beckowitz states that there was an Executive Session Monday, December 18, at 6:00 p.m.

Department Reports:

Code Enforcement - John Snelson informs the Board there is nothing other than his written report.

Engineer – Engineer Bryan Churilla informs the Board that they are getting ready to advertise the Forest Hills Road project by the end of the year and reminds them it is the CITF grant project. The advertisement was sent over today for Arrow Drive and they are working to finalize Chapel Drive and they will meet to wrap things up. The paving program is complete and final payments on the agenda for tonight.

Police - Chief Kerestes reads his report log of events and investigations for November 2017. There were 649 events logged in Allegheny County 911; 11 adult arrests and 3 juvenile arrests, officers conducted 32 traffic stops and issued 6 traffic citations, officers investigated 12 motor vehicle crashes, 3 reportable, 9 non-reportable with 0 injuries. Department also participated in the South Hills Regional D.U.I. Task Force Roving Patrol on November 23, 2017.

Public Works – In between the snowflakes they're still trying to pick up leaves and he's hoping to get that done this week. There's one truck down and he's hoping to have it back on the road Wednesday.

Solicitor – Nothing other than the items discussed during Executive Session.

Sanitary-Veolia Water – Commissioners are given a written report and are informed that the plant was in compliance for November.

Citizens to address agenda items:

Cyndi Rojohn: First she would like to thank Paul Saxon for his service as a Commissioner, especially for the past two (2) years and wishes him success in his future endeavors. She discusses the Planning Commission using 500 feet to deal with the fracking issue, which puts us in the residential neighborhoods and in the schools, it puts us in that element of 500 feet. She wanted to have Lasix surgery before it was popular to have done. Her optometrist said 'wait, wait 10 years let's see what happens'. That's what happened with fracking. In ten (10) years they have found a number of health issues and environmental issues that are related to the fracking industry, so 500 feet puts a lot of us in danger. She read on a number governmental sites that the weight of newborn babies was down dramatically for those that live even ½ mile from a fracking issue. As you went further out to about a mile is when it started to

decrease to where the babies were coming up to a normal weight. That's something that she hopes that the Commissioners will really think about when they're voting for some of the issues moving forward, to think of the whole district not just the people that have leases and have wells. Ms. Rojohn informs the Board that anyone who wants to look at that site about the babies can google it. Plum just did their ordinance for fracking and that ordinance was for rural and for industrial. The area there is very close to the kind of township that we have here, so she is hoping that when the Commissioners vote, they think of all of the residents here and not just the ones that have leases and you on the Board who have some kind of conflict of interest.

Solicitor Racunas replies that there are some good points Ms. Rojohn made and planning is currently addressing those setbacks. He doesn't know if she was at the last meeting where they discussed the setbacks and prepared a draft that's being circulated to the Commission now, but they'll be discussing it at the meeting tomorrow regarding those very same setbacks as well as possibly increasing the insurance liability requirements. One of the suggestions was to make it a condition that all wells have sound walls and to have a separate condition whenever they are in so many feet of a structure and those changes are being brought up at the Planning Commission Meeting. There is further discussion between Solicitor Racunas and Ms. Rojohn about the next Planning Commission meeting.

He explains that these Commissioners weren't the Board Members at the time it was decided to make the ordinance a conditional use in all zoning districts and at that time this was a use they wanted to allow. They contemplated it, it's in the ordinance, that's what they wanted. That is what this Board under this submitted application has to deal with so they really don't have a choice. What that means is the application is submitted and if it meets the technical requirements and the requirements in the ordinance, then the township is legally obligated to grant it. You have to unless there is a site specific health safety issue. So the changes that you are talking about, that's all for the Planning Commission to make those recommendations, to get it to this Board and then for this Board to develop a philosophy on what do they want. Plum made those changes after an application had already been approved. But these are items from a legal perspective and from his seat, the philosophy of the township, even as it stands today, is a conditional use in all zoning districts so this Board has to look at this from a legal perspective if those criteria are met.

Ms. Rojohn states that she understands that and she wasn't necessarily talking just about the conditional use hearing. She is moving forward with the rule that Plum did makes sense because she lives in Greenock where the houses are close together and she doesn't want it there. The other thing is everybody promised that Keystone Pipeline wasn't going to have an issue and it did. Solicitor Racunas reminds her of the Gorseline case pending before the Pennsylvania Supreme Court and there is further discussion about how to take care of this issue.

Patty Hoffman: She wasn't going to talk about Planning but she was at the last Planning Meeting and the only thing it went up to was 750 feet. It isn't even the same as Forward Township which is 1,000 feet. Solicitor Racunas tells her 1,000 feet from a school was discussed and she replies that isn't what they talked about at the Planning Meeting. And they considered it to be in all zoning areas, so that still puts us in residential and she doesn't think that's a whole lot better than what we have now.

In any case, she is not going to sit here and nitpick this case and she's not going to keep going on about it because that's not what she wanted to talk about. She hopes everybody comes to the Planning Meeting because it's really important to be there and listen to what is actually being said and most people don't. She wanted to thank this Board for what they did on Light the Night. It was an absolute, wonderful event. There was Santa Claus, pictures, fire trucks, lines and lines and lines of kids waiting to see Santa. It was just a wonderful event so once again, thank you Joelle Whiteman for great planning and it really was a wonderful event and everybody needs to come to these things even if you don't have kids, so thank you.

William Kuskie: He was here at the November 20th meeting concerning the right-of-way that goes up to Seven Springs Golf Course being private property or not being private property. He was here with counsel and it was determined that the property is private and it's not to be maintained by the Township anymore and presently it is still being maintained by the township. The road has been salted twice and plowed once. Jake Weigand tells him he will still plow that road because there is a house up there with a handicapped person living in it and he's been called to treat that road because the ambulance couldn't get to the house and that the other people living on that road deserve to get in and out. Jake states that the road crew put a lot of work into that last year and Mr. Kuskie states that it was a

total misappropriation of township funds and that it is the golf courses responsibility to maintain the road. Jake tells him the golf course doesn't have the means or ability to maintain that road. President Beckowitz asks if the homes are owned by the golf course or if they are privately owned and is told there are 4 homes on the right at the top of the road that are privately owned.

Solicitor Racunas asks if his concern is that the Township will take over the road by continuing to plow it and Mr. Kuskie tells him yes. Solicitor Racunas informs him that we can come up with a document that would secure the fact that it's his private property even though the township continues to plow and salt it. There are plenty of streets in this township that have never been dedicated that have become public roadways that we plow for the safety of our residents. You cannot not plow an entire development and leave 100 people stranded just like you can't do it with 4. He tells Mr. Kuskie whatever his concern is, he is sure that the township can create something that alleviates his issue while at the same time protecting the residents who live up there. Mr. Kuskie tells him there was a letter sent by his lawyer that covers that issue and Solicitor Racunas tells Mr. Kuskie to have his counsel call him.

Cindi McCall: She just wants to thank the Board for all the hard work they do.

Discussion Topics:

Ordinances:

Motion to adopt Ordinance 933 fixing the tax rate for the year 2018 at 3.926 mills. The tax rate for general purposes, the sum of 3.426 mills and the tax rate for fire service, the sum of 0.500 mills. **Motion:** Commissioner Blake. **Second:** Commissioner Evans. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries**

Items for Consideration:

1. Motion to adopt the 2018 General Fund Budget in the amount of \$6,455,833.13. **Motion:** Commissioner Kuzma. **Second:** Commissioner Blake. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
2. Motion to adopt the 2018 Sanitary Fund Budget in the amount of \$3,929,160.00. **Motion:** Commissioner Blake. **Second:** Commissioner Kuzma. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
3. Motion to approve the Commissioner meeting minutes dated July 17, 2017 and August 7, 2017. **Motion:** Commissioner Blake. **Second:** Commissioner Rhoderick. There are no questions on the Motion. **All in Favor: The Ayes have it, Motion carries.**
4. Motion to approve the General Fund Bill Warrant dated December 18, 2017 in the amount of \$388,672.97. **Motion:** Commissioner Blake. **Second:** Commissioner Saxon. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
5. Motion to approve the Sanitary Fund Bill Warrant dated December 18, 2017 in the amount of \$196,529.00. **Motion:** Commissioner Saxon. **Second:** Commissioner Blake. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
6. Motion to approve Sanitary Bond Requisition No. 55 in the amount of \$10,000.77. **Motion:** Commissioner Rhoderick. **Second:** Commissioner Blake. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
7. Motion to approve Pay Application No. 1 to Tresco Paving for the completion of the 2017 Annual Paving Program in the amount of \$340, 555.99. (\$325, 000.00 to be paid out of liquid fuels and \$15, 555.99 to be paid

out of the general fund) **Motion:** Commissioner Blake. **Second:** Commissioner Evans. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**

8. Motion to ratify vote taken waiving the rental fee for the Community Center on December 10, 2017 for the Compassionate Friends Worldwide Candle Lighting. **Motion:** Commissioner Blake. **Second:** Commissioner Kuzma. There are no questions on the Motion. **All those in Favor: The Ayes have it, Motion carries.**
9. Motion to waive Zoning Hearing fees for the Blaine Hill Volunteer Fire Department for sign replacement and upgrade. **Motion:** Commissioner Saxon. **Second:** Commissioner Rhoderick. There are no questions on the Motion. **All in Favor: 6:1, Motion carries. Commissioner Evans abstains, Blaine Hill F.D. Chief.**
10. Motion to execute utility relocation reimbursement agreement for the Lovedale Sewer Relocation Project between Elizabeth Township and Penn DOT. **Motion:** Commissioner Evans. **Second:** Commissioner Rhoderick. There are no questions on the Motion. **All in Favor: The Ayes have it, Motion carries.**
11. Motion to _____ (approve or deny) a conditional use application submitted by Huntley and Huntley for the Apollo B Well Pad.

Solicitor Racunas: Madam President, as you know, Huntley & Huntley has submitted a Conditional Use Application for the Apollo B Well Pad. As I stated earlier to Ms. Rojohn, conditional use evidence as a legislative intent that a particular use is not adverse to public interest. Therefore, once the applicant brings himself within the standards of the ordinance, the application must be granted unless the protestants present evidence that the use will present a substantial site specific hazard and threat to the community. As you know, the Engineer has done a technical review of this application and has determined that it does meet the requirements of our current conditional use ordinance. Therefore, in your consideration and determination the following conditions have been recommended if you give approval to this application:

1. Huntley shall be required to submit a separate Grading Permit Application prior to earth moving;
2. Huntley shall be required to obtain a Building Permit and Certificate of Occupancy appropriate for the use;
3. Huntley shall be responsible to pay the Township's reasonable attorney's fees and engineering fees and experts costs born in connection with the conditional use application and hearing process;
4. Onsite orientation and training of First Responders will be required once its site access has been cleared;
5. Huntley shall provide verification to the Township that they have received all permits and written approvals required by the Department of Environmental Protection or any other State or Federal Regulatory Agency before beginning construction or conducting gas and oil operations;
6. Huntley must submit updated certificates before the expiration of the current policy and future insurance policies showing coverage meeting all requirements of the ordinance;
7. Huntley's parking plan depicts thirty-one (31) parking spaces, therefore, Huntley shall only be permitted a maximum of twenty-eight (28) persons employed at the site during heights in shifts;
8. The Township Commissioners shall provide additional feedback on selected transportation routes;
9. Huntley shall utilize any reasonable truck routes suggested by the Township Commissioners;
10. Overweight Use Application has been submitted, however the Township Commissioners shall have the right to request additional roadway maintenance and repair agreements as necessary;
11. Penn DOT shall establish and review the minimum traffic site differences as part of Huntley's HOP submissions;
12. Huntley shall ensure that the Township streets utilized by them, as well as their agents and contractors, shall remain free of dirt, mud, and debris resulting from any operations. Such streets must be promptly swept or cleaned if dirt, mud, and debris occur as a result of the usage;

13. Huntley shall ensure the construction of the oil and gas operations comply with the Pennsylvania Uniform Construction Code;
14. Huntley shall ensure that no onsite burial of climb ladders, drilling residuals, or hydraulic fracturing residuals is permitted. The operator must remove all rubbish, construction materials and all debris in a prompt manner in the interest of public safety;
15. Huntley shall ensure that no permanent structures are erected in a height in excess of fifty (50) feet. The maximum height allowable for structures during construction shall be determined by the Township Commissioners;
16. Huntley shall place warning signs as appropriate on the fencing surrounding the site of oil and gas operations providing notice of potential dangers and contact information in case of emergency;
17. When constructing oil and gas operations, the natural surroundings should be considered and attempts made to preserve the existing trees and other native vegetation;
18. Huntley shall ensure that noise generated during oil and gas operations shall not exceed the average ambient noise levels by ten (10) decibels during drilling activities or hydraulic fracturing operations during the hours of 7:00 a.m. and 7:00 p.m. and five (5) decibels during the hours of 7:00 p.m. and 7:00 a.m.;
19. Huntley shall ensure that the allowable increase in 6086(c)(1) shall not exceed the average ambient noise level for more than ten (10) minutes within any one(1) hour period;
20. Huntly shall provide a standard Resident Complaint Procedure with a template of complaint forms;
21. Huntley shall ensure that no construction activities are performed in connection with the oil & gas operations except for the assembly and disassembly of rigs except for the hours of 7:00 a.m. to 7:00 p.m. or as otherwise authorized by the Township;
22. Huntly shall ensure that no oil & gas operations except subterranean operations and drilling of wells, the operation of natural gas compressor stations and natural gas processing plants shall take place between the hours of 7:00 a.m. and 7:00 p.m.;
23. There shall be no restriction on the hours of operation for the drilling of wells or the operation of natural gas compressor stations and natural gas processing plants;
24. Huntley shall ensure that the restrictions on the hours of operations set forth above shall apply to all truck traffic accessing the oil & gas operation site;
25. Huntley shall ensure that the right of entry granted by the Township is compliant with all sections of the ordinance;
26. Huntley shall ensure that planned on-site worker housing is compliant with the ordinance;
27. Huntley must supply ground water depth information prior to construction activities in accordance with the submitted narrative;
28. Huntley must conduct pre-drilling water sampling surveys in accordance with the submitted narrative;
29. Huntley must submit any information that was not available at the time of application as an addendum to the emergency response plan as noted in the narrative;
30. Huntley shall provide the Township with a list of job titles which constitute supervisory personnel;
31. Huntley shall install gravel over the limestone base for the access road;
32. Huntley shall water the gravel portion of the access road everyday where there is not a rain or snow event during active construction, drilling and fracking;
33. Huntley will agree to repair and/or resurface any Township owned road where damage is caused by Huntley vehicles or equipment based on pre- and post-inspections;
34. Huntley will implement flaggers and/or other appropriate traffic control measures as reasonably approved by the Township at the intersection of Simpson-Howell Road and State Route 48 for any truck exceeding 25 feet;

35. Huntley will supply the Township with copies of all environmental air quality monitoring reports as received by the Allegheny County Health Department or any other agency;
36. Huntley will supply the Township with copies of all water quality monitoring reports received from the Pennsylvania Department of Environmental Protection or any other agency;
37. The Township will receive timely notification in the case of an emergency shut down;
38. The Township shall receive timely notification of any major flare events;
39. Prior to the construction of an oil & gas operation, Huntly shall retain an air quality expert in order to establish by generally accepted testing procedures the environmental air quality level at the nearest property line of a residence or public building, school, medical, emergency, or other public facility, or 100 feet from the nearest residence or public building, medical, emergency, or other public facility, whichever point is closer to the affected residence or public building, medical, emergency, or other public facility;
40. Huntley will conduct continuous air quality environmental testing until the well is in production;
41. Huntley shall provide a report to the township for any three (3) day period of the air quality monitoring upon request.

Solicitor Racunas states that these are the suggested conditions. Commissioner Similo thought that the township would have total control on what routes they're going to use and we're already saying we want a flagman at that terrible intersection. Solicitor Racunas explains the earlier condition is that the township commissioners shall provide additional feedback on selected transportation routes, 'Huntley shall utilize any reasonable truck routes suggested by the commissioners'. Commissioner Similo states the other issue is the intersection of Simpson-Howell and State Route 48 where they will have to utilize flaggers or other traffic control. He informs Solicitor Racunas if the Board picks another route, he sees no need for it if and Solicitor Racunas tells him in his opinion, just in case you use that route, you still need that in there. Commissioner Similo tells him that will determine how he votes and he asks about the suggested red lights. Solicitor Racunas tells him you can add whatever other conditions in a Motion, those are just the recommended conditions. Commissioner Similo then asks because the township has a lease with Huntley & Huntley and we're going to vote on this, should we give up our lease as a conflict of interest here? Solicitor Racunas tells him he doesn't think there's any benefits to any individual board member so he would say no.

Bill Burry recommends to the Board that conditions should include everyone that works on that site because the recommended conditions are on Huntley & Huntley, not for the contractors who work for them. President Beckowitz asks if there's somewhere we can add something to that effect and Solicitor Racunas asks if she wants Huntley to supply insurance certificates for their subcontractors and Mr. Burry states that is standard operating procedure and President Beckowitz agrees with him. Commissioner Saxon reiterates what Mr. Burry said, that everything in there reads Huntly & Huntley and that Huntley & Huntley may have subcontractors and employees that are not under them. Solicitor Racunas tells him the decision will be any condition that applies to Huntley & Huntley will also apply to all subcontractors and that he is only talking about Huntley as the applicant and the applicant is responsible for the conditions. An example of this conditional use is when 'Joes Trucking' isn't the applicant, you can't really hold them to the conditions that this Board decides to put on them, you can only hold Huntly responsible. Now if Huntley hires 'Joes Trucking' who doesn't have a driver's license and he goes out and hurts someone, Huntley is probably exposed for a negligent hiring type claim, but they really can't hold the subcontractors responsible. Huntley is the applicant so we can only address the applicant and put conditions on the applicant.

There is discussion between Solicitor Racunas and President Beckowitz and she informs him that there should be some way to know the subcontractors are included in the conditions. Someone in the audience asks what the penalty is if they don't comply with all of these conditions and Solicitor Racunas states their permit would be pulled and their operations would have to cease. They were granted a conditional use permit and if they fail to meet the requirements of the permit, the permit gets pulled. Solicitor Racunas is asked about pond liners associated with drill cuttings and he states, 'no onsite burial of pond liners, drilling residuals or hydraulic fracturing residuals is permitted'. President Beckowitz reads the motion:

Motion to approve a conditional use application submitted by Huntley and Huntley for the Apollo B Well Pad, with conditions as recommended. **Motion:** Commissioner Kuzma. **Second:** Commissioner Saxon.

There are more questions on the Motion. Commissioner Rhoderick asks for clarification for the access road gravel. First, he would like to cite for the record that gravel could include asphalt millings and reclaims. Second, before he was elected commissioner several years ago, he has a natural gas lease on his private property, he wants Solicitor Racunas' opinion if he should vote on this or if he should abstain. Solicitor Racunas informs him that he did research that issue a while ago and as long as he doesn't gain any pecuniary benefits from this, he is permitted to vote. Commissioner Saxon addresses Engineer Bryan Churilla. Between engineering and our solicitor, you went through this with a fine-tooth comb and they have met everything they need to meet for this approval. Solicitor Racunas tells him Bryan did a technical full review item by item. Engineer Churilla adds that most of those conditions were straight out of the ordinance to say you have to make sure you comply with everything in the ordinance, so it's all covered as the ordinance is written.

Commissioner Similo – He has to vote no because he sees a conflict here between us having the right to be involved with it and here we are approving a flagman and everything else so unless we change that, he votes no. We denied that for reasons before and we have to be consistent.

Commissioner Saxon – He agrees with Commissioner Similo and he hopes that's all discussed at the detailed plan of travel for the truck route. He votes yes.

Commissioner Kuzma has two (2) conditions that he would like to add and asks if he can. Solicitor Racunas states he can't but he can vote no for this and then add them in, this Motion is with these conditions. Commissioner Kuzma asks if he can request that the Motion gets amended. Solicitor Racunas tells him he can ask to have it amended but he doesn't remember who made the Motion and then realizes it was Commissioner Kuzma who states that he wants to amend his Motion to include that the trucking route will change with any request the commissioners make, so if we decide that we want the trucks to go a different route, we should have total power to be able to do that. Solicitor Racunas tells him it's already in there. The other contingency he has is that the applicant installs a red light pending Penn DOT's approval at the intersection of Rock Run Road and Route 48 to alleviate traffic because of the increased trucking. Commissioner Similo asks if his first amendment was already in there so that we have complete control over the routes. Solicitor Racunas tells him the way the suggested condition was, 'the commissioners shall provide additional feedback on the selected transportation route. Huntley shall utilize any reasonable truck route suggested by the commissioners'. Commissioner Similo states he likes Andrew's (Commissioner Kuzma) better, we have total control. Commissioner Kuzma makes the Motion and Commissioner Saxon seconds.

Solicitor Racunas informs the Board that there is now an amended Motion that would include installing a red light at Rock Run Road and Route 48 and that Huntley shall utilize any truck route suggested by the commissioners.

Commissioner Similo – Yes.

Commissioner Saxon – Yes.

Commissioner Kuzma – Yes.

Commissioner Blake – Yes.

Commissioner Rhoderick – Yes.

Commissioner Evans – Yes.

President Beckowitz – Yes.

All in Favor: Motion carries.

12. Motion to approve and execute Letter of Mutual Consent No. 1 between Elizabeth Township and Department of Environmental Protection moving funds from budget category 3 and 4 into category 2 for the Municipal Recycling Program Grant. **Motion:** Commissioner Blake. **Second:** Commissioner Rhoderick. There are no questions on the Motion. **All in Favor: The Ayes have it, Motion carries.**

13. **ADDED MOTION:** Motion to adopt a Resolution prohibiting Category 4 Casinos within the Township. Solicitor Racunas explains that this is something he is recommending all his municipalities to adopt. There was legislation that was recently passed regarding Category 4 Casinos, which are actually known as mini-casinos that would allow them to come into municipalities. Each municipality is given to the end of this year, until December 31st, to pass an ordinance if they want to prohibit Category 4 Casinos. If you don't pass it you can never prohibit them going forward. However, if you do pass it, at any point going forward, if you change your mind, you can rescind that ordinance. He is recommending that the township do that as a precautionary measure to adopt the resolution. . **Motion:** Commissioner Similo. **Second:** Commissioner Blake. There are no questions on the Motion. **All in Favor: The Ayes have it, Motion carries.**
14. **ADDED MOTION:** Motion to pay Attorney George Gobel a balance of \$6,376.00. Someone in the audience asks if he ever produced any documents for the money we were paying. Commissioner Kuzma states, 'nothing that we didn't already know' and President Beckowitz tells him that Gobel has given us a re-cap of everything and will turn over all his files when this last bill is paid. Commissioner Kuzma states and all the files he has he got from the Township in the first place so we already have them all. **NO MOTION – MOTION FAILS.**
15. **ADDED MOTION:** Motion to direct the Solicitors to take over negotiations of the Township Sanitary Sewers with Pennsylvania American Water Company (PAWC) under his flag fee retainer. **Motion:** Commissioner Kuzma. **Second:** Commissioner Saxon. There are no questions on the Motion. **All in Favor: The Ayes have it, Motion carries.**

President Beckowitz states there is one last Order of Business, Commissioner Saxon. This is Paul's last meeting and on behalf of the Board, we have a plaque for you, 'Presented to Commissioner Paul Saxon in appreciation for years of hard work and dedication as Commissioner of Elizabeth Township 2014 – 2017'.

Motion to Adjourn: Motion: Commissioner Evans. **Second:** Commissioner Kuzma.

President, Chris Evans

Joelle Whiteman, Office Manager