

**Elizabeth Township
Board of Commissioners
Monday, August 21, 2017
Commissioners' Workshop 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, August 21, at 6:00 to discuss personnel issues.

Citizens to address Agenda items:

Cyndi Rojohn: Ms. Rojohn is concerned about a public letter she saw posted to Facebook and other social media forums about a decision regarding Invenergy that was made before the Commissioners had a chance to get notification and why the notification was sent to Solicitor Racunas' office instead of the Township. She is also concerned because she was at the Planning Commission Meeting and believes that the application was incomplete and either sent back or denied in relationship to spot zoning and to re-zoning.

She asks Solicitor Racunas whether or not he contacted Invenergy or any other Commissioner before contacting President Beckowitz or Commissioner Similo. She tells the Board that Solicitor Racunas repeatedly said he wanted to do things by his philosophy and she believes his philosophy is creating issues with the proposal that was sent to the County. She states this is costing the Township money with Solicitor Racunas' billable hours and that he may have conflicts of interest. She questions if he should be writing certain Ordinances. There is discussion about whether relatives of the Solicitor owning property involved with Invenergy re-zoning issues is a conflict of interest. The Solicitor tells her that because he knows people that are related to people in the Township it doesn't mean there is a conflict of interest. He tells her this is a strong statement to make in public and wants everyone to know there is no conflict of interest.

Ms. Rojohn asks Solicitor Racunas if what's happening with Invenergy is because of the incomplete application and delayed hearings, or if it's incompetence, collusion or both? She also asks whether the delay is related to the upcoming Commissioner election.

Solicitor Racunas informs her that Kay Pierce at Allegheny County Planning is easily accessible and will give the requested information to Ms. Rojohn and that he and Commissioner Beckowitz speak every day and they have a very interactive relationship as far as information about what is happening with the Township. He tells Ms. Rojohn that he recently receive a request from Invenergy to extend the hearing because they want to wait and look at the County Planning letter and see what they recommended. He

reminds everyone that County Planning doesn't deny or approve something. They only make recommendations and suggestions.

There is discussion between the Commissioners, Ms. Rojohn, and Solicitor Racunas regarding a misunderstanding by County Planning and confusion about re-zoning a 25 acre parcel to M-1 because it should be 140 acres with the actual building location on 25 acres. So both of those numbers are in the application when it was sent to the County and this may be why the County's recommendation was for a 25 acre plan. Ms. Rojohn asks Solicitor Racunas why it went to his office rather than to the Township and Commissioner Similo states that when the Board finds out from the public what's going on it's embarrassing to the Commissioners. He tells Solicitor Racunas that information should come to the Commissioners and not to the general public.

Ms. Rojohn asks Solicitor Racunas why it went to his office instead of the Township and he assumes it's because he sent the review and application to the County with a cover letter submitting application and the ordinance that was approved by Township Planning. He assumes she was just responding to his letter and states she should have copied the Township, but that's between the County and the Township. There is more discussion regarding why the Township didn't get a copy from the County.

President Beckowitz asks if anyone has any thoughts and Mr. Emil Burak states it was made very clear they were buying 140 acres and were going to use 25 acres for the plant. President Beckowitz asks if he has seen the application and he respond 'no'. She asks if there is anyone else.

Carol Daily: Ms. Daily asks about the hearing in September and if everything the Township does is based on what Invenergy wants. There is heated discussion between Ms. Daily and Solicitor Racunas regarding the drafted application sent to the County. Ms. Daily states there are 10 things wrong with it and asks the Solicitor if he reads what he sends to people. Solicitor Racunas responds that there are 10 suggested changes and reminds her that this is not a Township generated ordinance, this ordinance was generated as a request from the applicant. He explains typically an ordinance is created here, it would be discussed, goes to Township Planning for review and comment, comes here, he drafts it and it gets passed. In this situation the applicant states they would 'like you to consider this', they're not stating there's anything wrong with the zoning.

There is further discussion between Commissioner Similo and Solicitor Racunas about Invenergy putting together an ordinance for recommendation and consideration. After it is approved by the Township Planning Commission, it has to go to the County for review and comment. Solicitor Racunas explains that this process is not for all ordinances, only ones that alter zoning. There is discussion in the audience about zoning, ordinances, and acreage for the request by Invenergy.

Megan McDonough: Ms. McDonough brings up quite a few issues with what has been going on in this Municipality. She tells the Commissioners that residents have asked more times than should be necessary that if they make decisions that affect countless residents that they are able to exercise their right to due process by being told the truth with total transparency. She continues to explain the many instances when right-to-know request were not complete and/or she was told the documents don't exist. She asks the Board if it is transparent when a right to know request for meeting minutes has pages missing; or if a request for email communications is answered with a letter stating they don't exist, yet other residents are given the information. She tells the Board the rooms are filling up at meetings because they feel that they can't trust what goes on in this room anymore, that what's best for the community as a whole or for the interest of the residents is the driving force for the decisions being made.

She explains that residents alerted the Planning Commission numerous times that the map change materials were not complete and wonders how the Municipality will move forward with public hearings since a full review didn't take place because of the incomplete materials. She explains that a map change and a text amendment are two different requests that should have been voted on and viewed separately but Solicitor Racunas told them that the text amendment and map change were one item and if that is the case, then any portion deemed incomplete by the County should render all requests incomplete and it should be denied on that basis. She states the many errors that have occurred throughout this process cannot be changed and allotting more time for them to make necessary corrections is only going to add to the frustration and stress for residents who have already been through enough. She asks that the request should be denied in full and if changes must be made, then the applicant can feel free to come back and re-apply and go through the proper process. Enough time has been wasted by this municipality placating to a corporation that it never would have done for its own residents.

There is discussion between Ms. McDonough and Commissioner Kuzma about information on social media, transparency with emails that relate to the Township, and access to this information.

Carol Daily: Inaudible discussion, not speaking into the microphone. Speaking about 25 acres and spot zoning a larger area, if the challenge is on the same basis.

Solicitor Racunas explains to her that anything could be challenged and that he stated at the Planning Commission Meeting that he can only deliver the legal opinion that he believes based on the case load that he's researched. He informs Ms. Dailey that he never found a case that said that you can have spot zoning with a parcel that size and if he had found something, he would certainly say that it is spot zoning. He further explains that he is not delivering an opinion based on who the applicant is and that he represents the Township. He was asked whether he believed this was spot zoning and he believes that it is not.

Ms. Daily tells Solicitor Racunas she believes he is not representing the Township's best interest. She discusses the Pennsylvania Municipal Code, the issues involved when an outsider presents a text amendment with re-zoning, the procedures that must be followed and the paperwork. She continues to state that she filed a right-to-know for that application and was told there was none, and tells Solicitor Racunas that if there's no application, it doesn't exist. They cannot re-zone property if they don't own it. There is more discussion about the process used for Invenergy regarding the Zoning Board and Planning Committee.

She continues to discuss the Sunshine Act and believes it has been violated on more than one occasion. The report written by the Planning Committee should have been allowed to be seen by the public. She asks to have a motion for an investigation. She asks if there were any addition payments made for legal fees and demands no further delays of the appeal. She also requests that another attorney be brought in. There is more discussion between Ms. Daily and Solicitor Racunas regarding the re-zoning, who owns the property and the hearing process. There is inaudible discussion between the Solicitor and audience members.

President Beckowitz asks if it can be denied and Solicitor Racunas believes so. He states theoretically that if you deny their application outright and not waste time on a public hearing. Code Officer John Snelson explains that the letter and everything they sent is considered their application Commissioner Saxon states that this entire thing has been an embarrassment and he agrees to make the motion to completely abandon this and will word it anyway Solicitor Racunas wants. Solicitor Racunas states that it shouldn't be, that the County always has comments on ordinances that are sent to them and the correct process has been followed. Commissioner Similo agrees that the application should be denied.

Comments on the Motion:

Emil Burak tells the Board if we vote against this it can go to Supreme Court. The situation that Commissioner Similo talked about dragged on for two (2) years and the only way the Township got out of it was by taking possession of property. These people can drag it out because they already have the appeal in Commonwealth Court.

Megan McDonough asks if this is denied, is there no recourse for Invenergy? Solicitor Racunas states it's merely a submittal for consideration and Ms. McDonough argues that it should be denied because the application process was not done correctly and is incomplete. There is more discussion about how the application letter was processed. Commissioner Similo requests that it be done right and save the Township any further embarrassment.

ADDED MOTION: Motion to direct Solicitor Racunas to inform Invenergy that their application is denied. **Motion:** Commissioner Saxon. **Second:** Commissioner Similo. **Roll Call Vote – 4:3 Motion carries.**

Commissioner Kuzma states that every decision he makes is based on what his constituents want done. There are 30 people in this room and a couple thousand in his ward; he's not for or against the power plant but he wants to hear public comment and he's not going to deny it before hearing public comment, he votes no.

Commissioner Blake votes no. Commissioner Rhoderick agrees with Commissioner Kuzma's statement and votes no. Commissioner Similo, Commissioner Saxon, Commissioner Evans, President Beckowitz vote yes.

Citizens to address Agenda items:

Russell Verbanic: Mr. Verbanic asks if all the Municipalities involved with the Act 537 are in agreement. Engineer Bryan Churillo states all but one, still waiting for Sewickley Township. He heard that it was put up for a Motion but it was denied and now the DEP will be stepping in. Based on his meeting with the DEP, they are going to force Sewickley Township to approve it and then the Part II permit can be submitted. Can't submit the permit until the Act 537 is approved.

Commissioner Similo asks about how it would affect us if Sewickley Township went to Westmoreland County Authority and is told it would be similar to what McKeesport is doing with PA American and Elizabeth Township had to adopt it. They would have to move forward with anything Sewickley Township is ordered to do or that they have agreed to do. If Westmoreland County agrees to proceed and force the Sutersville/Sewickley Municipal Authority to move forward there shouldn't be an issue.

Mr. Verbanic discusses with Engineer Churillo the agreement from the Trails people about a line along the trail. They have not reached an agreement and it is Engineer Churillo's understanding, based on the letters that were sent, that they are going to let the Township do this and admits if they deny us it would be a problem. He further explained it is in the trail right-of-way, not in the trail and that there are areas to get around streams or culverts where they will need right of ways, but it's limited. The Township is in the right of way for the trails property just outside of the area where people bike or walk.

There is discussion between Engineer Churilla and Commissioner Similo regarding using plans by Senate to submit Act 537 and that DEP instructed to use new plan.

Items for Consideration:

1. Motion to approve the General Fund Bill Warrant dated August 21, 2017 in the amount of \$185,480.74. **Motion:** Commissioner Evans. **Second:** Commissioner Saxon. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
2. Motion to approve the Sanitary Fund Bill Warrant dated August 21, 2017 in the amount of \$134,086.46. **Motion:** Commissioner Similo. **Second:** Commissioner Evans. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.** Commissioner Similo comments that the Sanitary Bill Warrant has not been put out with the General Fund Bill Warrant for the public and we're required to do that.
3. Motion to approve the Ackenheil Engineers, Inc. invoice for the Forest Hills Geotechnical Investigation in the amount of \$840.00. **Motion:** Commissioner Rhoderick. **Second:** Commissioner Blake. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
4. Motion to approve Sanitary Bond Requisition No. 51 in the amount of \$5,037.10. **Motion:** Commissioner Saxon. **Second:** Commissioner Blake. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
5. Motion to waive circuses and outdoor exhibitions permit fee for the Mt. Vernon Presbyterian Church's festival being held on Saturday, September 16, 2017. **Motion:** Commissioner Blake. **Second:** Commissioner Saxon. There are no questions on the Motion. **All in Favor: The Ayes have it, Motion carries.**
6. Motion to accept 2016 Audit as prepared by Horner, Wible, & Terek, PC. **Motion:** Commissioner Similo. **Second:** Commissioner Blake. There are no questions on the Motion. **Roll Call Vote - All in Favor: Motion carries.**
7. Motion to hire Horner, Wible, & Terek, PC to review prior Township and Sanitary Authority payroll tax compliance requirements with the Internal Revenue Service and Commonwealth of Pennsylvania. **Motion:** Commissioner Rhoderick. **Second:** Commissioner Evans. Comment on the Motion: Commissioner Rhoderick asks if the Township is following the recommendations of the audit and points out the Township received the same audit recommendations two (2) years in a row from different firms. President Beckowitz states she is not happy with this audit firm and believes they only copied what the other firm did. There are no questions on the Motion. **All in Favor: The Ayes have it, Motion carries.**
8. Motion to approve the payment for 2 Port-a-Johns at the Elizabeth Township's Sportsman's Club and waive the fee for fireworks permit for the September 9, 2017 Pig Roast. **Motion:** Commissioner Rhoderick. **Second:** Commissioner Evans. There are no questions on the Motion. **All in Favor: The Ayes have it, Motion carries.**
9. **ADDED MOTION:** Commissioner Kuzma was approached by a resident that owns a private road with 4 homes on it, Boyce Lane in Buena Vista. At the end of the private road is a dumpsite the Township trucks were using and that resident is claiming we damaged the road. Commissioner Kuzma makes a Motion for Public Works Foreman Jake Weigand to pave half of Boyce Lane and fix any damage done by the Township. **Motion:** Commissioner Kuzma. **Second:** Commissioner Saxon. There are no questions on the Motion. **All in Favor: Motion Carries**

Commissioner Kuzma then asks the Board where the Sanitary Authority investigation stands with George Gobel. He states we were supposed to have something filed by the end of December last year, then we were supposed to have something filed by the end of July, then we were going to have a meeting with him and got nowhere and we still have nothing. President Beckowitz and Commissioner Similo advise they are meeting with him this week and invite Commissioner Kuzma to attend the meeting and he declines stating that it needs to be turned over to someone else. President Beckowitz acknowledges that they have already agreed to bring in someone else. Commissioner Kuzma makes a motion to turn it over to Dave Straussberger; he's totally independent and doesn't have any political affiliations. Commissioner Similo asks Commissioner Kuzma where he got Strassburger's name and President Beckowitz wants to stay with George Gobel.

Commissioner Kuzma explains that the Authority operated without existing, it operated illegally. They used Bond money that wasn't allocated for the purpose (Solicitor Racunas states allegedly allegedly, this is all hypothetical, and it wasn't approved by the Board of Commissioners. An Independent Auditor suggested we get an Independent Engineer to come in and look at everything that was done. We hired George Gobel. He takes our money, he says we're going to file something, we're going after the insurance company to get some of the money back that was taken. He is asked by Commissioner Similo, 'How do you know he didn't file?' President Beckowitz asks if he has given George Gobel the common courtesy of a phone call and Commissioner Kuzma tells her the he called George Gobel more than once and now he's making a motion to turn it over to someone else.

When asked how to find out if it's been filed, Solicitor Racunas responds that it would be filed with the Court of Common Pleas in Allegheny County and once filed, it's public record. Commissioner Kuzma believes that the Statute of Limitations is running out and if we don't go after it in a certain amount of time, all that money is gone. Commissioner Similo states we're not in danger of that and asks again where Commissioner Kuzma got Strassberger's name. Solicitor Racunas explains that he is from Strassberger, McKenna, Gutnik and Gefsky, the firm that they talked to when Township originally started the investigation and that he was recommended by Solicitor Racunas. Commissioner Similo yells that's right, and you're one of the people being investigated; so let's get it all out! You're going to name somebody to come in here and investigate this. President Beckowitz wants to stay with George Gobel and insists that he's ready to file. Commissioner Kuzma tells her that she said that eight months ago and he thinks we should turn it over and he makes the Motion to turn it over.

Commissioner Rhoderick agrees to second on one condition, that this attorney is able to have an engineer he can work with to substantiate our audits. Commissioner Similo states there is money already invested in this and it's ready to go. Commissioner Rhoderick states he is okay with anyone because two (2) years in a row we had audits that recommended we have an Independent Engineer look at these Bond Requisitions. He continues that as long as an attorney is willing to work with an engineer he will second the Motion and Commissioner Similo tells him that he will not vote for an attorney that's recommended by someone and suggests we get Jack Cambest to come in and recommend someone. Solicitor Racunas informs Commissioner Similo that he is making very strong statements and doesn't know why he would be investigated because he did not represent the Sanitary Authority. There is a shouting match between Commissioner Similo

and Solicitor Racunas about the timeline involved with the discovery of the illegal doings of the Sanitary Authority and the Solicitors alleged involvement.

President Beckowitz raises concern about the cost of doing this and Commissioner Rhoderick is concerned about the audit findings two (2) years in a row. He states that we approved the Sanitary Bonds and it was discovered that only \$101,000 out of the \$500,000 was justified spending. President Beckowitz wants Commissioner Rhoderick to give George Gobel the courtesy of a call and Commissioner Rhoderick tells her that he has spoken to him and heard that he's going to retire at the end of the year. He also states that George Gobel was supposed to have something filed on this by the end of December and there's a statute of limitations on this.

Commissioner Similo asks when the statute of limitations is up and Solicitor Racunas replies that it is in March. President Beckowitz states that the Board should speak to George Gobel and if he doesn't include this stuff in it, then she will be the first to request a Motion to bring someone else in.

Commissioner Rhoderick states that for the past 2 years, they have had an audit recommendation to have an engineer independent of anyone who was involved in that. President Beckowitz states that they have tried to get several engineers to look at this and no one wants to do it.

Commissioner Rhoderick states that is why he is in agreement with Commissioner Kuzma. If you have an attorney that is willing to work with an engineer to get this done and we're on the second year for the audit. President Beckowitz asks how many more engineering firms are we going to pay and Commissioner Rhoderick agrees with her, but states the Township has already paid thousands of dollars to George Gobel and he has not seen one piece of paper from him. Rhoderick states that he can give what he has so far to the new attorney and save him that work.

10. **ADDED MOTION:** Commissioner Kuzma makes a Motion to turn the Sanitary Authority investigation over to Dave Straussberger to file before Statute of Limitations runs out. President Beckowitz asks if the Motion can wait until the next meeting so they can meet with George Gobel and see what he has, offers to have a special meeting to give Township the status of where he's at. **Motion:** Commissioner Kuzma. **Second:** Commissioner Rhoderick **Roll Call Vote: 3:4 Motion fails.**

Commissioner Similo-No

Commissioner Saxon- No. The Township has already paid the man thousands of dollars and we should at least get an answer to what is going on before we hire someone else and throw that money away. I'd rather get something; and if it's not what we want, then we move on. We're firing this guy after paying him thousands of dollars and we didn't even get one piece of paper showing what he did or didn't do. No for right now.

Commissioner Kuzma-Yes.

Commissioner Blake-No.

Commissioner Rhoderick-Yes.

Commissioner Evans-Yes

President Beckowitz- No

Motion to Adjourn given by President Beckowitz.

President, Chris Evans

Joelle Whiteman, Office Manager