

Ligonier Township Supervisors
Regular Meeting
May 13, 2014

The Ligonier Township Supervisors met in regular session at 7:00 pm. Chairman Paul Knupp took roll call. Present were Chairman Paul Knupp, Vice Chairman D. Scott Matson and Timothy R. Komar.

Public Comment:

The following residents signed in and spoke at the meeting:

- 1) Wade Thomas directed his questions to Solicitor Scott Avolio asking where the township is with the audit and the District Attorney's Office. Avolio stated that it is still under investigation and we hope to hear from the county soon. Mr. Thomas asked if the DA's office has been contacted in regards to where the investigation is and Mr. Avolio stated that he has spoken to them and offered the township's cooperation and they responded their appreciation for this offer.
- 2) Chris Turner strongly opposed the adoption of Solicitor Mark Hamilton's proposed zoning amendment. He stated that he felt this would only benefit one property owner.
- 3) Don Korb strongly opposed the adoption of the amendment stating that the zoning regulations don't support this.
- 4) Connie Hall spoke in support of Foxley Farms stating that she feels the Nields are trying to encourage growth and development in Ligonier. She spoke of a letter that was distributed that read "Good news. We have achieved much success, especially at the township political level where truly a professional group is now in control, including the zoning officer, two new supervisors and a special solicitor who was recently hired specifically to follow through on Foxley Farm matters. Together we believe that this group shares our commitment to enforcement of current zoning regulations throughout the R2 district. We expect our success to be reinforced as the township takes additional steps to increase its professional management. As a result we believe that we are now near the point where we can transition leadership of our three year effort over to the township." She stated that it sounds like, "well I guess we can turn it over to you guys now because we got the people in there that we want in there." She said she would be offended if she were them because it sounds like they are bought and paid for.
- 5) K D Hall spoke in support of Foxley Farms.
- 6) Charles Shadron spoke in support of Foxley Farms. He also questioned the situation with the DA's office stating that all it takes is a phone call. Scott Matson stated that a call had been made on today's date. He was told that the report is "on the desk".
- 7) Maggie Nied spoke in support of Foxley Farms stating that she now tells people not to move into Ligonier Township. She stated that she had a verbal approval from everybody ahead of time. She said that there are places hosting events that do not have any permits and they are not grandfathered in. She listed Rolling Rock Club, Ligonier Country Club, Southern Allegheny Museum Association, Mill Creek and Bethlen Home.
- 8) Dave Barnhart spoke in opposition of the adoption of the amendment. He stated that both of the Nied's said that they had vocal and written documentation to go ahead when they knew

they didn't have zoning. Zoning is zoning, it's a banquet hall in an R-2 area. He said a commercial banquet hall is not farm to table.

- 9) Martha Murphy spoke in support of Foxley Farms.
- 10) Pat Doheny spoke in support of Foxley Farms. He stated that he is the attorney for the Nied's. He said the Nied's purchased their property with the intent to grow this community and make it a more beautiful place and keep these properties looking well and help maintain and grow the beautiful area that is Ligonier Township. He addressed the comments about the zoning amendment being considered as a back room deal and stated that nothing could be further from the truth. He stated that Mr. Hamilton, as part of his duties as special council for the township, has met with a variety of individuals, including him. He told the board that they have a tremendous opportunity to enact a zoning amendment that recognizes what is already the reality of the zoning issues in Ligonier Township. He stated that the proposed amendment from Mr. Hamilton only seeks to strengthen and clarify the already existing ordinance which it quotes extensively.
- 11) Don Carey stated that he is a strong advocate for agritourism in Ligonier Township. Based on details he read in the Ligonier Echo two weeks ago, the amendment that is being proposed is totally unreasonable and unworkable. It is a recipe for failure for anyone who would attempt to make a business profitable or even break even.
- 12) Dan Stevens wanted to remind the supervisors that they are the supervisors for Ligonier Township, supervisors for just under 7000 people and decisions should be made that are good for the 7000 people and not just a few. He asked them to take all those residents into consideration when making decisions. He questioned Supervisor Komar whether there was any new carpet being purchased for the meeting room. Mr. Komar said not that he was aware of. Mr. Stevens said that we should get new carpet because with the amount of stuff that is getting swept under the carpet, it's not going to last. Mr. Komar stated that he has no problem with bare floors because then you can see everything.
- 13) Mark Robertshaw spoke against any changes to the zoning laws stating that he bought property in this area because of the zoning that was in place.
- 14) Butch Bellas spoke in support of Foxley Farms. He stated that he feels it is not government's job to limit business, but to encourage business. He said he feels that the amendment to the ordinance proposed by Mr. Hamilton will hurt everybody in the valley, including the Borough. He stated that the Borough has hotels, bed and breakfast and restaurants and when you limit people as to what they can make, that's not good.
- 15) Jeremy McKlveen spoke against the ordinance limiting audience comments to three minutes stating that he feels "it is a load of crap". He spoke in support of Foxley Farms.
- 16) George Grier opposed the amendment to the ordinance stating that when you buy property you know what the zoning rules are and they should not be violated. He stated that he does not feel the zoning laws should be changed to accommodate one person.
- 17) Jennifer Ried questioned issues on Blue Hole Lane after sewage was put in. Her concerns are the speed that traffic is traveling on the lane. Tim Komar clarified that her issues are with the Municipal Authority and not the Township because it is a private road and not maintained by the Township. Tim Komar stated that he will donate a gate to help control the situation on her lane. She also questioned the time of the Ligonier Township Municipal Authority's meeting being held at 4:00 pm, stating that the time is inconvenient for most people to attend. Paul

Knupp said he would talk to the Municipal Board members about changing the time of the meeting.

- A motion was made by Timothy Komar and seconded by Scott Matson to approve the minutes of the April 8, 2014 meeting. Motion carried.
- A motion was made by Timothy Komar and seconded by Paul Knupp to approve the minutes of the May 1, 2014 special meeting. Motion carried.

Zoning Office: Zoning Officer Shelly Kaltenbaugh reported on the following items:

- 1) The Federal Emergency Management Agency has added a Map Service Center to their site. It is available at FEMA.gov. If you have any questions regarding your properties location in a flood plain or whether you are located in a Flood Plain, the Map Center is simple to use. All you do is add your address and a flood map of the area around your property will be created.
- 2) The Planning Commission will have their regular monthly meeting on Wednesday, May 21, 2014 at 7:30 pm. She noted that the meeting has been moved from Tuesday to Wednesday because of Election Day.
- 3) There will be a Zoning Hearing Board Meeting on May 27, 2014 at 7:30 pm to hear a request for a Use Variance to allow a car wash to be located on the northerly side of US Route 30 between properties located at 1353 US Route 30 and 1363 US Route 30 in Laughlintown, Pennsylvania. The property is zoned C-1, which is Village Commercial.

Police Report:

- Paul Knupp reported that Chief Michael Matrunic was on call and unable to attend the meeting.

Treasurer's Report:

Interim Financial Director Rae Ann Tronetti reported that the cash balance for the township, excluding the pension trust fund, for the month of April was approximately \$1,200,000.00. The cash position compared to last months' is up approximately \$85,000.00, so we are moving in the right direction. She stated that there were some questions as to the validity of these numbers at the last meeting and clarified that this is on the cash basis of accounting, which means that any liabilities that may be out there or any receivables due are not included on this statement. There is the potential for liabilities from pending lawsuits or other unknown liabilities that are not included. It is the goal of the township to move to the modified accrual basis, which is in accordance with government accounting standards. In the past, and for this years' audit, it was prepared on a cash basis. Looking at the Statement of Revenue and Expenditures it shows the collapsed version of the revenues and expenditures. The General Fund is showing an excess of revenues over expenditures for the month of April of approximately \$95,000.00. That is due to tax revenues coming in for the month of April and the township has tightened their belt as far as expenditures.

- A motion was made by Scott Matson and seconded by Timothy Komar to approve the Financial Statement for April. Motion carried.

Engineer's Report:

- Brian Vogelsang of Markosky Engineers reported they reviewed three applications, including one subdivision plan and two conditional use applications, in addition to some miscellaneous consultations.

Solicitor's Report:

Scott Avolio reported on a follow up to the February meeting between the Supervisors and the Planning Commission with a representative from the DCED. They discussed the Comprehensive Plan process and the assistance that office could provide. At the conclusion of that meeting, he was asked to look into some of the options related to cost and potential funding. The cost generally ranges from \$20,000.00 to \$40,000.00 range. He suggested that the Supervisors discuss this at a joint meeting with the Planning Commission or at the next work session to consider whether or not they are interested in sending out requests for proposals to get prices.

- A motion was made by Scott Matson and seconded by Timothy Komar to pay the bills as presented. Motion carried.

Old Business: None

Solicitor Scott Avolio requested that Special Council Mark Hamilton have the opportunity to speak and answer questions related to the proposed ordinance regarding Foxley Farms. Mr. Avolio stated, for the record, that he has a conflict and does not represent the township regarding any of those matters other than procedures. Mr. Hamilton spoke in regards to how the amendment to the Comprehensive Development ordinance would work.

- A motion was made by Timothy Komar and seconded by Paul Knupp to authorize special counsel Mark Hamilton to prepare and submit to the Ligonier Township Planning Commission a draft ordinance regarding agritourism.

Supervisor Komar stated that if you go back about eight years when he became supervisor he started asking questions. As Scott and Paul both know, when you're the new guy on the block everybody calls you at home and they want to know why this and why that. Mr. Matson asked why the planning commission did certain things and we put him on the planning commission so he could learn and it was an eye-opening experience. When he started asking questions about zoning it became very clear there were problems. If it didn't fit, it wasn't allowed, no "ifs, ands or buts". My favorite word was "why". If we are going to move forward why doesn't this exist? The one that blew my mind the most was the lady that was making wedding cakes near the Fairfield Township line in Ligonier Township. She complied because she was a no impact business as long as she was delivering the wedding cakes. One neighbor witnessed one person pick up a wedding cake, filed a complaint, and they had to shut her down because

that's not what the ordinance said. That is the absurdity of some of our zoning. Now let's come forward about three more years. There was an issue about gas wells in the newspapers and the TV. We had a hearing about a gas well in Ligonier Township off of Route 259. About eight people showed up. We hold a hearing for a Bed and Breakfast permit for Foxley Farms. Standing room only. I asked at that hearing "What is wrong with this picture?" National exposure about the gas wells and we get eight people. There is a problem. He petitioned our previous solicitor before Mr. Hamilton became interim solicitor that we need to have a low impact because every piece of property that someone moves out on and the house falls down and the bank takes it back and someone buys it, they are torn down and left grow up. Sooner or later the conservancy or other people buy them and they are grown up till they become a bird sanctuary, regulation shooting grounds or whatever. That property comes off the taxes. Everybody yells at the township about the taxes. Our road tax is 5 mills. The school tax, he believes, is 76 mills. Nobody yells at the school board, but they yell at us. If the roads not plowed they yell at us. We are any easy target. Let's go back about three years ago when Maggie and PJ came in for a Bed and Breakfast permit. It is in the records that he stated that he felt that the hall was already there when they purchased the property. It was different than moving into a residential area and building a banquet hall. It is in the minutes that he stated that they should be able to use it to some extent. He doesn't want a commercial business next to him either. Let's go back to last January. We had complaints they were violating the existing zoning. We filed an injunction. We were asked why we filed an injunction so quick. I told them straight out, with the previous supervisors, that he wanted a judge to decide now. He didn't want this to last four years, like a simple subdivision in Darlington took and the only people who won on that one were the lawyers. Nothing against lawyers, everyone needs one. When he was subpoenaed to go to the court house, he told Maggie when she served the subpoena that to some people it would appear that you want to run a commercial banquet facility and call it a farm. Those were his exact words and he said he had concerns, but she also has rights. He wanted the judge to decide. After spending about a half day, they took them back out into the hall and said we may have to come up with a settlement. He stated no, that he wanted the judge to decide. He went back into the courtroom and sat there for another hour and our previous solicitor said I have good news, we have a settlement. I said "What the hell" and everybody in the courtroom looked at him and he was escorted outside and it was explained. The point is we wanted a judge to decide, is our zoning right or is our zoning wrong. The judge would not decide. They had a settlement. He wasn't thrilled with the settlement. We only agreed with it out of respect for the girls sitting there that had their weddings scheduled. Anyone who has had their daughter or son married knows how wonderful that gets. Out of respect for the girls, he wanted to see those weddings go off. That brings us to last fall. He was accused of hand picking an interim board supervisor to make things work for Maggie. If Maggie was the poster child for this ordinance, or the amendment to this ordinance, I would say we are all in trouble. No offense, Maggie, but you didn't follow our original zoning, you violated a court order (my opinion) and I can see where people would say, "Well, she violated everything else so why would a new ordinance be different." He stated that there is a two-fold part to amending this land use ordinance. He asked our previous solicitor if weddings occurring in Ligonier Township are legal or not? It fell on deaf ears. Mr. Komar spoke about the Pennsylvania Amusement Tax. If you read the amusement tax, and what the description is, it says any activity for entertainment purposes. He asked for a definition if weddings are subject to this tax. He has yet to hear back. The tax needs to be done evenly.

Roll call vote was taken on this motion. Supervisor Komar voted yes, Supervisor Matson voted yes and Supervisor Knupp voted yes. Motion carried.

Scott Avolio stated that Mr. Matson thought the roll call vote was a vote for his presence to vote. He requested that another vote be made by Mr. Matson on whether he wanted to vote yes or no on this motion. Paul Knupp also stated that he misunderstood that he was voting on the motion and thought he was voting yes for his presence to vote. Mr. Avolio clarified that Mr. Komar made a motion to authorize special council to prepare and submit to the Ligonier Township Planning Commission a draft ordinance regarding agritourism. When Chairman Knupp called for a roll call vote after the second discussion they were asked whether they were voting in support or opposition to that motion. He asked Scott Matson if he understood that and he responded that he "screwed up". He thought he was voting for roll call. Mr. Avolio then asked Paul Knupp if he understood that he was voting on the motion that was made by Timothy Komar and seconded by him (Paul Knupp). Knupp stated that he also thought he was voting for roll call. Mr. Avolio then stated that they needed to make a motion to redact the motion. The motion should be heard again. He clarified that they would be voting by roll call on whether they support or oppose taking this amendment to the Planning Commission. Roll Call vote was taken: Timothy Komar, yes, Scott Matson, nay and Paul Knupp, nay. Motion failed.

- A motion was made by Timothy Komar and seconded by Paul Knupp to authorize the solicitor to open negotiations with Comcast cable pursuant to Comcast's request under section 626 (A)(1) of the cable communications policy act of 1984. Motion carried.
- A motion was made by Scott Matson and seconded by Timothy Komar to accept the summer road materials bid list as presented. Motion carried.
- A motion was made by Timothy Komar and seconded by Scott Matson to accept the bid by Glassmere Fuel Service to provide diesel fuel and gasoline as stated in the specifications provided through the Westmoreland-Indiana Council of Governments (COG) Program. Motion carried.
- A motion was made by Scott Matson and seconded by Paul Knupp to appoint Gary Thistlethwaite to the vacancy on the Ligonier Township Zoning Hearing Board. Motion carried.
- A motion was made by Timothy Komar and seconded by Scott Matson to appoint Robert Rost as alternate on the Ligonier Township Zoning Hearing Board. Motion carried.
- A motion was made by Timothy Komar and seconded by Scott Matson to accept the resignation of Ina Mae Smithley as recording secretary for the Ligonier Township Planning Commission. Motion carried.

SUPERVISORS COMMENTS:

Timothy Komar stated that Susan Huba of The Loyalhanna Watershed Association has applied and secured a grant in the amount of \$8,183.00 to help pay for the cost of the recycling program. He also reported that the township reclaimed anti-skid. The total cost of man hours, labor, parts and wearable items such as the gutter brooms and the main broom is \$21,359.98 that includes wages and benefits. We reclaimed a total of 18,065 tons @ a value of 17.00 per ton average for a total of \$31,705.00. The actual cash cost savings by reclaiming it over purchasing new material is \$10,345.02.

Scott Matson thanked Chief Matronics for working midnight shift and going to the schools in the morning to keep an eye on things. He also stated that he wants the trucks to have GPS units to get this place run like a business. He said that it has been run like a carnival for years.

Paul Knupp reported that the next work session will be on May 29, 2014 at 3:30 pm because the original date falls on Election Day. He thanked Ina Mae Smithley for her years of service as recording secretary on the Planning Commission. He expressed his thanks to the police department for their help in assisting the Municipal Authority for doing traffic control for them.

Scott Avolio announced that upon adjournment of this meeting there is an executive session addressing personnel matters that they would be recessing to.

A motion was made by Timothy Komar and seconded by Scott Matson to adjourn the meeting at 8:40 pm. Motion carried.

Respectfully submitted,

Barbara L. Hollick
Assistant Secretary