

## Board of Supervisors

### MINUTES

February 7, 2012

**Supervisors Present:** Barbara Lindtner, Volker Oakey, John Oehler, Dave Long and Rob Zisko

**Also present:** Terry Clemons, Solicitor; Rich Schilling, Township Manager and Jason Wager, Secretary/Treasurer

Barbara Lindtner, Chairperson, called the meeting to order at 7:10 p.m. and opened with the Pledge of Allegiance. The Board held an Executive Session prior to the meeting to discuss litigation issues.

Debbie Godshall, Notary Public, administered the oath of office for newly elected supervisor Volker Oakey.

### Public Comments on Agenda Items - None

### Old Business

Terry Clemons, Township Solicitor, recapped the authorization by the Board of Supervisors to file a petition for allowance of appeal to the Pennsylvania Supreme Court for requesting review of the Commonwealth's decision in relation to PPL. Mr. Clemons and his firm was also authorized to take whatever action was necessary to require a stay of PPL's activities pending action on the petition.

Barbara Lindtner commented that the board had voted at the last meeting to continue pursuit of the Stay and the Volker Oakey would abstain since he was not present at the previous meeting. Since this is a litigation matter, she explained that certain details could not be discussed, but that Mr. Clemons could answer any general questions and talk about the timetable on how things would proceed.

### Public Comments

**Bruce Whitesell**, township resident, questioned if the three tests of appeal had been met. Terry Clemons explained that any one of the three tests being met would warrant an appeal. One is that the lower court has decided an issue that has substantial public impact, which would merit a prompt review by the Pennsylvania Supreme Court. Another is that the lower court has violated its requirement concerning the review of cases and abused its discretion. The final test is that there is a conflict among decisions in the jurisdiction. Mr. Whitesell asked how much had been spent on the litigation so far. Rich Schilling stated that approximately \$195,000 had been spent on the PPL litigation. Mr. Whitesell asked if the township would lose, could there be damages assessed against the township. Mr. Clemons explained that this would be addressed in the petition for a Stay and that he felt because of the township being a political subdivision, the township would be exempt from any damages. Mr. Whitesell commented that he would like the board to look into more open space opportunities and any other means that perhaps would manage future difficulties.

**Aimee Douglas**, township resident, wanted to know what the timetable was and where the appeal and the stay would be filed. Terry Clemons explained that these would be filed on the same day. The petition for allowance of appeal would go to the Pennsylvania Supreme Court and the stay would go to the Commonwealth court. The procedure after that would be for the Commonwealth court to schedule a conference and decide whether to hold a hearing. There would be no hearing for the petition for allowance of appeal by the Pennsylvania Supreme Court. This court would then decide whether to give Springfield Township permission to fully brief the issues presented by this case and allow the appeal to go forward. After all that, there would be another round of filing. Mrs. Douglas inquired if PPL had started to proceed. Mr. Clemons commented that since there is no stay, PPL has stated that they can go forward until they are stopped by the courts. PPL has issued a letter stating that they do not

have a definite timetable on their activities, but that they have started to do some core drilling and soil tests in preparation for construction. Mrs. Douglas thanked the board for deciding to go forward and keep fighting this issue.

**Scott Douglas**, township resident, asked Mr. Clemons if the point of local control would be brought up in this case. He could not answer this, but stated any points would be in the petition that would be filed and be available once it becomes a public document after filing.

**Charles Malinchak**, reporter for the Morning Call, asked if the stay once filed would stop all activity by PPL. Mr. Clemons stated that there would need to be an order adhered by the Commonwealth granting the stay to stop activities by PPL.

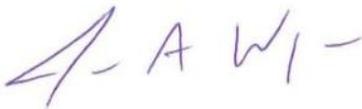
**Hilary Bentman**, reporter for the Intelligencer, asked how quickly a decision could be made by the courts. Mr. Clemons stated that there is no definitive timetable established for the courts, but that he thought the ruling would come shortly. She also inquired if there is a "Plan B", which Mr. Clemons commented that there is always a Plan B, but that he was not able to release information about that at this time.

**Darlene Smicker**, a non-resident of Springfield Township, inquired if it was normal for a big company to win cases against small municipalities for which Mr. Clemons answered that he didn't know if there was any statistical data on the success rate of utility company court cases. He commented that if there are rules and procedures in place, then they must be followed. He stated that we do not believe PPL had not followed the proper rules and procedures and that is what we have built our case on.

### Adjournment

At 7:39 p.m., Rob Zisko moved to adjourn the meeting. John Oehler seconded; the motion passed unanimously.

Respectfully submitted,

A handwritten signature in blue ink that reads "A. A. Wager". The signature is stylized and written in a cursive-like font.

Jason A. Wager  
Township Secretary/Treasurer

Next meeting: February 28, 2012  
Approved: February 28, 2012