

MT. PLEASANT TWP. BOARD OF SUPERVISORS' SPECIAL MEETING OF NOVEMBER 7, 2013

The special meeting of November 7, 2013, was called to order at 6:30 p.m. by Chairman Grimm with the Pledge of Allegiance to the Flag. Those present were: Larry H. Grimm, Chairman (LG), Arden B. McCartney, Vice-Chairman (AM) was available by phone, R. Bryan Smith, Supervisor (BS), Charles Means, special counsel (CM), Mary Ann Stevenson, Secretary (MS), and those citizens listed on the attached sheet.

Purpose: To consider entering into an agreement with Range Resources for the settlement of the Notices of Violation against the four (4) impoundments.

Discussion Item: CM gave a brief statement explaining the four (4) main points of the settlement agreement with Range Resources that was drafted after they took an appeal to the Zoning Hearing Board for the four (4) Notices of Violation issued to them from the Township regarding the four (4) impoundments. CM stated the terms were: 1.) the Carter Impoundment will be immediately decommissioned and reclaimed and will not be used in the future; 2.) the Cowden and Clingerman Impoundments will remain fresh water and will be phased out within three (3) years for the Cowden and five (5) years for the Clingerman and Range will start utilizing temporary above ground storage containment where feasible; 3.) the Stewart Impoundment – Range filed a conditional use application on 10/11/13 to convert the Stewart Impoundment into an above ground tank farm and in doing this, Range has to show that this use is available in that district and that they meet all of the conditions of the ordinance; 4.) this agreement is contingent upon Range receiving conditional use approval for the tank farm; 5.) Range will adhere to this agreement even if Act 13 is upheld and that this agreement applies to any successors. At this time CM opened the meeting up to public comments.

Public Comments:

1. Janet Lauff asked if the water in the pipelines to the tank farm would be fresh water and CM responded that it could be but that it is designed for frac water since they are waste water tanks. She asked about our current ordinances, or lack thereof relative to tank farms and CM responded that all of those questions are to be handled at the conditional use hearing.
2. Martin O'Lear, Quarry Lane stated he likes the first condition that gets rid of the Carter Impoundment due to the toxic waste, but he has a problem with #3, the Stewart Impoundment and asked how the board could just transfer the problem from one side of the Township to the another side. He added that the weather runs from West to East and any fumes or odors is going to cross the church and the pre-school, downtown Hickory and the Community Center and daycare and he is concerned about the health and safety of the residents and children. Lastly, he asked for Range to go to the Industrial Area of the Township or to leave the Township.
3. Maggie O'Lear, Quarry Lane stated there was an article in the Trib. Review by Tim Puko from 8/31 regarding a tank leakage and comments made by Matt Pitzarella with the point being that tanks do leak. She added that in September Shawn Gallagher stated that Range has several areas (Townships) to get water from. Then she asked AM if he had a lease with Range. AM stated he wasn't sure that he signed the papers but he has never received a royalty payment and Chiarelli is in production. When he called Range they did not have it on record. Mrs. O'Lear said she pulled his records and that he does have a lease from 6/15/11 and the number is 201115498 and asked if he had a conflict of interest. CM said he wasn't aware of this and he needed more information. CM stated he will investigate it as the meeting proceeds. CM added that BS currently has a conflict of interest since his property abuts a small portion of the Carter property. Mr. O'Lear asked that the board request a time limit on the tank farm and added that it is not fair that Range brings in frac water from other states. CM stated that would be addressed at the conditional use hearing. He also asked who would be monitoring the air.
4. Chris Lauff, Ft. Cherry Rd., stated that there are areas of the agreement that are vague such as the term "best efforts", and questioned whether or not the Township would be setting a precedent of putting it in an area that is not zoned for it. CM stated this agreement would not affect other areas of the Township and that our 180 day challenge to our ZO would address that issue. He added that the last whereas clause on

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page 1 is inaccurate because the Carter Impoundment has been inactive longer than it states. Lastly, he asked the BOS to issue RR a notice of violation because the Carter Impoundment was constructed improperly because it was built in the water table per Brian Miller of the DEP as told to the Lauff's and Bryan Smith this past summer.

5. BS stated if this agreement is contingent upon the conditional use hearing then this should be tabled until then. CM stated that this agreement is contingent upon the outcome of the conditional use hearing on 11/22. BS asked LG that this meeting should be postponed until after the conditional use hearing. CM stated that the hearing is going forward on the 22nd and that this agreement is contingent upon approval of the tank farm. LG wanted to know if the people wanted this meeting tabled and other residents wanted to be heard.
6. Paul Battista, Johnston Rd. questioned whether or not any of the other supervisors have leases and suggested maybe no one can vote if everyone had a conflict. LG stated he does not have a lease.
7. Don Reed, stated that AM has rights like anybody else and should be able to vote. There was back and forth discussion amongst unidentified people.
8. Rebecca Skirpan, 151 Avella Road, stated that the Stewart property is in the Cross Creek high quality watershed and it could get damaged and that she didn't get public water and is concerned that her well could get contaminated. She questioned whether or not RR lease included the 140 acres across the street and she fears expansion in the future. There was back and forth discussion about how much land is included. She asked AM to recuse himself from voting. Another concern she had is with the risk associated with pipes carrying waste water. CM stated these are issues for the hearing on 11/22. She added that there are 2 separate issues, the Stewart tank farm and the impoundment NOV's and they should be treated separately and that the agreement is not good for the Township.
9. Jane Worthington, Main St., stated she is concerned with underground pipelines and the agreement doesn't state what is being carried in them or how they will be monitored. She added that hazmat trucks have to have manifests in them that state exactly what is in those trucks and anybody can ask to see them. She questioned how can that be achieved with pipelines – no one will know what is in those lines or where it is coming from, another state perhaps. She added that she felt a good agreement could be reached but this one is not it and asked the Supervisors to stand behind the citizens and to vote "no".
10. Bill Forrest, 62 Baker Road stated that the conditional use and the NOV's should not be wrapped together and should not influence each other. He added that AM not being here to participate is disrespectful. Mr. Forrest asked if this agreement supersedes other ordinances and CM stated that it does not. He also has concerns with hours of operation and that waste water from neighboring municipalities that could be up to 50 miles away and include a lot of wells will be dumped in MPT. CM agreed, it does not control the number of wells but it does provide for them to be phased out. Mr. Forrest added that he doesn't think it is a good deal and he doesn't know what the hurry is.

AM responded that he should be given credit for telling the truth and that his intentions were to be here but his truck broke down and it was out of his control and he added that he is not being disrespectful and the only way to participate was by phone.

AM stated he is recusing himself from voting in case there is a slight chance of a conflict. CM commented that since there are currently two (2) supervisors with potential conflicts (Bryan Smith with property that abuts the Carter Impoundment and Arden McCartney having a lease with Range Resources) that for the record, the Sunshine Act states, "whenever a governing body would be unable to be able to take any action on a matter before it because the number of members of the body required to abstain from voting under the provisions of the ethics act makes a majority rather legally required vote of approval unattainable then such members shall be permitted to vote if disclosures are made". CM stated this means that with a three (3) member board, you need 2 members to vote for a majority and in this case with both supervisors having a conflict, both can legally vote and the reasons have been disclosed as recorded above.

11. Jane Worthington, Main St., stated that the people elected this board to do what is best for the community and its residents and that she trusts the board will make the right decision.
12. Carol Galbraith, 40 Caldwell Road, stated that it appears that this agreement is an attempt to bundle all of the issues together instead of treating them as separate issues. CM stated that was her interpretation. BS

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added that he felt it was best to wait until after the 11/22 hearing. LG stated that the Township was told that if the agreement fails to pass that Range will start to immediately fill the Carter Impoundment. Then a bunch of people started to talk back and forth commenting on the threats that are being made and not identifying themselves and no record could be made of the discussions.

13. Mark Wolf, 283 Fort Cherry Road stated that the Township needs to take advantage of the training provided by Range and asked the board to learn from all of the advances made. He added that if the concern is environmental, then the Township should pay to have environmentalists come out and test the air and water and to become educated and spend money wisely. There were back and forth discussions among multiple unidentified people.
14. Dick Wallace, Main St. stated the tanks are enclosed and sealed and they are not open like the Carter Impoundment which is better.
15. Hugh Staub, 101 Walnut Rd., stated his air is contaminated and he was told to leave his property and he is concerned for his daughter.
16. JoAnne Wagner, Lakeside Drive, stated that the Township needs to have all of the data when making a decision. She added as an example the ZAC (zoning advisory committee) researched 10 states and 10 ordinances when they helped draft the amendment and there is data to support toxic waste. She urged the Supervisors to research and gather data before making a decision. At this time the comments ended.

Action Item: LG motioned to adopt Resolution 2013-J; a Resolution approving the proposed settlement agreement with Range Resources. Motion died for lack of a second.

Adjournment: LG motioned to adjourn the meeting at 7:55 pm and BS seconded the motion. The motion carried unanimously.

Respectfully submitted,

Mary Ann Stevenson
Township Secretary
Mount Pleasant Township
Board of Supervisors