

PUBLIC HEARING

MONDAY, MAY 9, 2016

6:30 P.M.

Roll Call Dave Buchewicz presiding. Board members Walt Sackinsky and Ed Snee were present. Also in attendance were: Karen Fosbaugh, Township Manager; and Paul J. Gitnik, Esq., Township Solicitor.

Purpose of Hearing The purpose of the Public Hearing is to take oral or written testimony on the following Ordinance:

ORDINANCE NO. 678: AN ORDINANCE OF THE TOWNSHIP OF SOUTH PARK, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 556, AS AMENDED, ENTITLED "SOUTH PARK TOWNSHIP ZONING ORDINANCE," TO (1) AMEND IN ARTICLE II, SECTION 202 THE DEFINITION OF OIL AND GAS DRILLING SUBSURFACE FACILITIES AND/OR ACTIVITIES; (2) TO ADD IN ARTICLE II, SECTION 202 DEFINITIONS FOR HAZARDOUS LIQUID AND/OR GAS PIPELINE AND PIPELINE IMPACT RADIUS; (3) TO ADD HAZARDOUS LIQUID AND/OR GAS PIPELINE AS A CONDITIONAL ACCESSORY USE IN THE C-1 COMMUNITY COMMERCIAL, C-2 SHOPPING CENTER, C-3 VILLAGE CENTER COMMERCIAL, C-4 HEAVY COMMERCIAL, B-P BUSINESS PARK, I-1 LIGHT INDUSTRIAL, AND I-2 GENERAL INDUSTRIAL DISTRICTS; (4) TO AMEND AND RESTATE ARTICLE XIX, SECTION 1903.47 CAPTIONED DEEP WELL SITE FOR OIL AND GAS DRILLING; (5) ESTABLISH MINIMUM INFORMATION THAT SHALL BE PART OF THE CONDITIONAL USE APPLICATION FOR HAZARDOUS LIQUIDS AND GAS PIPELINES; AND (6) ESTABLISH MINIMUM INFORMATION, CRITERIA AND STANDARDS THAT SHALL BE PART OF THE CONDITIONAL USE APPLICATION FOR FRESH WATER AND/OR WASTE WATER IMPOUNDMENTS.

Testimony **Mr. Wargo** – Mr. Wargo stated that on 3/14/2016, the Board of Supervisors scheduled the Public Hearing. On 4/7/2016, the draft ordinance was sent to the Allegheny County Planning and Economic Development; and to date, no comments have been received. On 4/14/2016, an advertisement for the public hearing was placed in the Trib Total Media Pittsburgh edition and was published on 4/21/2016 and 4/28/2016. The Planning Commission

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Meeting was advertised in the April and May editions of the Park News. The Planning Commission had their public recommendations sent to the Board of Supervisors on 4/28/2016.

Helen Hazi, 1900 Triphammer Road – Ms. Hazi thanked the Board of Supervisors for having the Public Hearing and for adopting the ordinance in advance of any drilling. She commented on various sections of the ordinance which she stated were positive features. Ms. Hazi requested clarification in regard to zoning in residential districts. Mr. Gitnik replied that in the original Ordinance No. 652, which was adopted 1/10/2011, it stated that deep well oil and gas drilling is a conditional use only in B-P, I-1, and I-2, on 20 acres or more. The new ordinance reduces the acreage to 10 acres. Therefore, drilling is prohibited in any of the residential zoning districts. Mr. Gitnik added that subsurface operations could occur in residential districts, which the Township cannot prevent. Mr. Buchewicz asked if Ms. Hazi has seen the map, and she replied that she had. She pointed out that the purple area is the Industrial Zone. Mr. Gitnik added that the Business Park zoning district is depicted in dark green.

Ms. Hazi expressed her concern regarding setback requirements and notice requirements for drilling of both types of wells. She commented that according to the ordinance, residents who are within 1,000 feet of a drilling would be notified. If drilling occurred within the landfill area, the ordinance would not take into account the residents in the vicinity of the landfill. Ms. Hazi stated that she is aware that certain conditions can be imposed with a permit for drilling, and she hopes that the location of the residents would be taken into account. She further commented that according to the Planning Commission, that is something that can be taken into consideration, but what tends to be done and followed is that which is considered to be the minimum requirements of the regulation.

Ms. Hazi also discussed the testing of water, which she feels is a good feature of the ordinance, particularly the subsurface structures which are aquifers. She mentioned that that would only be addressing both pre and post drilling and not during the lifetime of the drilling project. She mentioned Trax as an example of how long the drilling could occur and that there could be damage done to the environment, particularly to the aquifers. She asked that the Township consider additional conditions on the permit relative to more frequent monitoring of water and not just simply pre and post drilling.

Ms. Hazi is also concerned about the disposal of waste water. She commented that the landfill continually takes in fracking waste,

both drill cuttings and the brine, which amounts to both tons and billions of barrels on an annual basis. She expressed her concern about the leachate discharge that goes from the landfill into the sewage treatment plant and was pleased that some baseline testing was done on both the effluent and influent. If drilling occurred, she requested that another condition be imposed for continuous monitoring of what goes out into Piney Fork Creek and that the expense be incurred by the drillers.

Another concern of Ms. Hazi is relative to coverage of compressor and gas processing stations and pipelines. She referred to Ordinance No. 652 and commented that there are very minimal requirements, and even less requirements for drilling. She mentioned that compressor stations and pipelines are a very important part of the whole natural gas and fracking process to consider, and Ordinance No. 652 failed to address the notice requirement should any processing stations or compressor stations be developed in Industrial Zones. She added that there were no specifications for testing to be done in the event of the compressor and gas processing stations being established. Testing was omitted on air, odor, noise, vibration, road and lighting, and there is no complaint procedure that was specified. In the proposed Ordinance, the pipelines did not specify any requirements having to do with notice, testing or complaint procedures. She mentioned the recent explosion of a pipeline in Westmoreland County, which had not been inspected since 2012. She added that it represents an example of minimum requirements that are imposed by the DEP and the Federal Government. She commented that the Township would be wise to reconsider issues having to do with pipeline inspection and monitoring. She stated that from both the compressor station and pipelines, gas can be emitted, and the idea of testing gas at particular points would be important. She encourages the Township to consider the limitations of the compressor station and pipelines and asked for clarification regarding zoning districts for pipelines. One final point that Ms. Hazi addressed relative to compressor stations and natural gas processing is the fact that state Oil and Gas Acts do not address them. Therefore, municipalities are being encouraged to add additional requirements to safeguard the Township and its citizens. She added that some of the surrounding municipalities are considering issues such as emissions, enclosures of compressor stations, no bleed valves, vapor recovery systems, independent and continuous air pollution monitoring. She, again, referenced Ordinance No. 652 relative to compressor stations and asked that the Township consider what other municipalities are doing. She is pleased with how the township is proceeding with fracking and drilling but is concerned about the limited coverage relative to the compressor stations and pipelines.

Ms. Hazi asked for clarification on the purpose of the public hearing and what will be done with the information obtained. She distributed copies of documents relative to her comments.

Mr. Gitnik – Mr. Gitnik responded to Ms. Hazi’s concerns. He stated that the Ordinance clearly provides that the setback requirements for zoning districts will apply. However, according to the Ordinance, “The Township reserves the right to increase any setbacks based upon the physical characteristics of the site, including but not limited to, topography; woodlands; the distance from structures, parks, schools, residential neighborhoods; and the community character of an established community and its environment.” Therefore, during the conditional use application review, if it is determined that more than 1,000 feet is needed, the Township is permitted to increase the setback requirement, based on its findings.

In regard to the notice requirement, Mr. Gitnik explained that notice is given for when the drilling is to begin. According to the Ordinance amendment, “The Township reserves the right to impose any other additional conditions necessary to protect the public health, safety and welfare of its residents in order to address the community character and established communities and environments, as well as, any unique characteristics of a particular drilling site which are not otherwise within the jurisdiction of federal and state regulations in accordance with the Pennsylvania Municipalities Planning Code (PAMPC).” Therefore, if the drilling occurred at the landfill, for effective notice to occur, Mr. Gitnik agreed that the setback requirement could be increased to more than 1,000 feet. Mr. Buchewicz added that for any application on the Planning Commission agenda, the Code Enforcement Officer posts the property with notification of the time and date of the meeting. Ms. Hazi responded that this evening’s public hearing was publicized at the Planning Commission meeting and a very small notice published in the Park News. The Township’s website did not have the public hearing listed. Mr. Buchewicz stated that the matter will be reviewed.

Mr. Gitnik addressed the issue of aquifers. He explained that if there are aquifers in the proposed applicant’s conditional use application, they would have pre and post drilling. The Board could add as an additional conditional use that every three years, if the project was not completed within a one or two year period, there would be an additional test of the aquifers, which includes the water and the soil.

Mr. Gitnik explained that the disposal of the waste water is controlled by the DEP. In the landfills, ahead of the Township are the DEP, Leachate DEP, and the Piney Fork Creek DEP. If we were to address the landfill, leachate and Piney Fork Creek, which would be the sanitary treatment plant, it would not be within the Oil and Gas Act. The Township would address the issue in a comprehensive manner, because we do not want to just look at the spectrum of oil and gas. Also, the Township does not possess the talent base to accurately review the tests; we would have to hire outside consultants. In the Oil and Gas Act amendment, we tried as much as we can to be sure if that were to occur, the applicant would bear the cost of the outside consultant. Mr. Gitnik added that if there were any issues, the County Health Department would also look into the matter.

Mr. Gitnik discussed the issue of compressor stations and gas processing plants. He stated that there will be further review on the matter. According to the Ordinance, "The Applicant shall pay any and all applicable fees..." Therefore, there will be an application fee, and they will pay for the professional consultants. He added that compressor stations and gas processing plants are very sophisticated facilities that would require the Township to engage professional consultants. There will most likely be further modification as an amendment. In that modification, the Township will be looking at compressor and gas processing plants. The Township would like to add Indemnification and Release language and would also like to add the ability to put the "catch-all" provision, opposing additional standards.

Mr. Gitnik discussed pipelines, stating that there are not many communities in this region addressing pipelines. He explained that the Township feels that they are creating the initial framework for pipelines. There are two different kinds of pipelines: transmission and gathering lines and distribution. Pipelines are not as mature as deep well drilling activities, and the Township would like to address the matter in the ordinance. We are restricted by the DEP and FERK. With many of the pipelines, they are trying to seek FERK for protection so that they are considered a public utility. Hazardous liquid or gas pipelines are permitted as an accessory conditional use, and our planning consultant recommended they be an accessory conditional use. Accessory use is not the primary use but is an accessory use of property. They are permitted in C-1 Community Commercial, C-2 Shopping Center, C-3 Village Commercial, C-4 Heavy Commercial, B-P Business Park, I-1 Light Industrial, and I-2 General Industrial districts. The reason for their inclusion in the aforementioned districts is that if we did not provide for enough ability to have the gas exit the Township, then there is a possibility of a validity challenge. If there is a

validity challenge, and they can show that we did not provide an adequate area for them to be able to install pipelines, then they would be able to install the pipelines anywhere, including a residential district. Ms. Hazi commented that water transport to the site for wells would also be another use for pipelines. Mr. Gitnik responded that water is not addressed in this ordinance, only oil and gas. Ms. Hazi stated that Peters Township has transported water to the Trax site, and it is not unusual to consider how fresh water for the drilling would be transported. Mr. Gitnik stated that he has placed a note for further consideration on the matter.

Mr. Gitnik commented that in regard to the compressor stations and natural gas processing, there are additional requirements forthcoming on those, including Ms. Hazi's comments. This is an industry constantly evolving and maturing in our region. The Township does not believe that this will be the only amendment to the ordinance.

Mr. Gitnik explained that the purpose of the public hearing is for the residents to testify and give reason why they believe certain matters should be accepted, amended, or modified. The Board will make a decision after hearing testimony from all the residents and professionals, obtaining as much information as necessary for the Board to be able to make an informed and educated decision about a very important matter that is facing the Township. They will decide whether the ordinance can be either passed as is or to make substantial changes to the ordinance which would require going back to planning process. They can also table the adoption of the ordinance for further discussion amongst themselves. Mr. Gitnik added that as legal counsel, he has explained to the Board that with the assistance of professionals he has tried to craft an ordinance that we feel will at least address issues that need to be currently addressed. However, the industry is evolving, and issues that were brought up this evening are all matters that will be taken into consideration. The Township wants to be sure that if any of this would occur within the Township, we will have the best practices, so the impact would be minimized to the residents. We cannot prevent it, but the Township is trying to protect the public health and safety of its residents.

George Baran, Professional Engineer and Dennis Martinak, Director of Municipal Services and Certified Planner, both introduced themselves as employees of **Macken Engineering**.

Ed Eichenlaub, Bethel Park, PA – Mr. Eichenlaub asked what a 10 acre plot would look like on the map. Mr. Gitnik addressed the question by showing him on the map an area similar to 10 acres. Mr. Gitnik explained the Ordinance states 10 acres; however; the

area could encompass land in both South Park Township and a neighboring municipality. For example, eight acres could be in South Park Township and two acres in Union Township, and that would meet the Township's requirements.

Project Engineers – No comment.

Mr. Sackinsky – No comment

Mr. Snee – No comment.

Mr. Buchewicz – No comment.

Mrs. Fosbaugh – Mrs. Fosbaugh commented that the proposed ordinance, and all of the Township ordinances, are constantly changing to meet the needs of the residents. She explained that when an ordinance is adopted, it is continually updated according to regulations and conditions and to meet the needs of the community.

Mr. Gitnik – Mr. Gitnik added that the minimum site required for a compressor station or a natural gas processing facility is 50 acres. He commented that the Township had a difficult time locating 50 acre sites that were capable of having a natural gas processing facility or compressor station.

**Close Public
Hearing**

Motion by Mr. Sackinsky and seconded by Mr. Snee to close the public hearing. All members voted aye. Motion carried.

Adjournment

Motion by Mr. Sackinsky and seconded by Mr. Snee to adjourn the public hearing. All members voted aye. Motion carried.

Time: 7:12 p.m.

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