

This meeting called to order by Mr. Edward Sullivan, Chairman of the Board. Board members present were Mr. Larry Harrison, Mr. Jeffrey Shula, Mr. Timothy Gwynn, and Mr. Charles Konkus. Also present were Solicitor Michael Korn and Mr. Alexander Graziani, Township Manager.

Pledge of Allegiance to the Flag.

Mr. Korn – The soul item on the agenda for tonight is consideration of Resolution 104/2016 which is a resolution approving an agreement between the Township of Penn, Penn Township Zoning Hearing Board, and Apex Energy LLC. The purpose of this agreement is to resolve a number of State and Federal lawsuits that Apex Energy, the Township and/or the Zoning Hearing Board are a party to. We have spent quite a lot of time over the last few months myself, the Zoning Hearing Board Solicitor Mr. Sweeney, and Counsel for Apex coming up with this list of conditions. I want to thank all of them for doing so and I want to thank Mr. Sweeney and the Zoning Hearing Board for their hard work in getting this together. This stems from seven (7) applications Apex Energy has filed to drill wells in the Township. All seven (7) wells are in the zone that the Township Commissioners have already determined is already appropriate for drilling. The question of whether there was going to be drilling on these sites has already been determined the only question that was ever up for discussion would be under what conditions these wells would be permitted. With that we have been able to, and again, myself, Zoning Hearing Board and Apex come up with the following conditions which will be imposed in addition to obviously the regulations that are already apply under State and Federal law and our existing Zoning Ordinance. Condition #1 and I am essentially summarizing what those conditions are. 1. Apex will install sound walls on all well pads during construction, drilling and completion phases of the operation. 2. Apex will employ and pay for a third party to engage in sound monitoring during the construction, drilling and completion phases of the operation. 3. Apex will engage in landscape restoration in consultation with the Township of Penn for each well pad in the Township. 4. Apex will maintain a twenty-four (24) hour hotline for use by the Township for use in case of emergency. 5. Apex will employ a third party to engage in air quality monitoring during the construction, drilling and completion phases of the operation. 6. Apex will engage in a light mitigation plan in consultation with the Township during the construction, drilling and completion phases of the operation. 7. Apex will consult with the Township of Penn and Penn Trafford School District regarding truck traffic and will take steps to insure that trucks do not idle on any well pad. 8. Apex will allow the Township to immediately engage in air monitoring on any date in which there is a DEP reportable spill or a spill has been reported to the DEP until the spill is abated or remediated.

Mr. Korn – That specifically would have come into effect if this had already been in effect at the Quest pad last week when there was a spill that was reported to the DEP of mercaptan. That spill was not DEP reportable because it was not a health hazard, it's just annoying, but it was reported to the DEP and remediated, and so this condition would be if a similar spill would happen this condition would be implemented. In exchange for those conditions the following lawsuits will be resolved in this fashion;

- a. The Township of Penn shall issue a permit for oil and gas operations for the Beattie pad which was denied by the Zoning Hearing Board and is currently in front of the Westmoreland County Court of Common Pleas case number 2308 of 2016 the Township of Penn shall issue an oil and gas permit for the Beattie pad.
- b. Westmoreland County Court of Common Pleas case number 2784 of 2016, regarding the Draftina pad, will be withdrawn by the Appellant Apex Energy. The Township of Penn shall issue a permit for oil and gas operations for the Draftina pad.
- c. Case Number 3961 of 2016, the appeal of the Zoning Hearing Board denial of the White pad will be withdrawn by Apex Energy, LLC and the Township shall issue a permit for oil and gas separations for the White pad.
- d. Case Number 3007 of 2016, regarding the Beattie preliminary land development application will be withdrawn by the Appellant Apex Energy, LLC, and the Township of Penn shall issue a preliminary land development approval for the Beattie pad.
- e. Westmoreland County Court of Common Pleas case number 3392 of 2016, regarding the Draftina preliminary land development application, will be withdrawn by the Appellant Apex Energy, LLC. The Township of Penn will issue a preliminary land development approval for the Draftina pad.

- f. Westmoreland County Court of Common Pleas case number 4708 of 2016, which involved three cases; the Numis pad, the Deutsch pad, and the Drakulic pad, will be mooted and those cases will be returned to the Zoning Hearing Board for hearings to be held. For those hearings the Zoning Hearing Board have agreed that the conditions that are laid out here if met by the Applicant will be sufficient to meet the conditions of our Ordinance and sufficient to show that the Applicant is in compliance with the Environmental Rights Amendment to the Pennsylvania Constitution and therefore will be following these same conditions in those hearings. Finally, it's not a lawsuit, but the Backus pad application in front of the Zoning Hearing Board will be completed, that hearing will be completed and again, the Zoning Hearing Board has agreed that these criteria these conditions laid out are the criteria that explain our interpretation of the Zoning Ordinance. Finally, the Federal Case Number 16-cv-759 which is a Federal Lawsuit brought by Apex Energy, LLC against the Township of Penn and the Penn Township Zoning Hearing Board claiming damages in excess of three hundred million dollars \$300,000,000.00 will be stayed at the consent of all parties pending the final resolution of the Backus, Numis, Drakulic, and Deutsch applications in front of the Zoning Hearing Board.

Mr. Korns – Again, there was a lot of work in coming up with these conditions. These conditions far exceed any restrictions that are available through the State or that you have in many of your neighboring municipalities most of which don't have any sort of restrictions at all. It has always been the policy of this Township to allow drilling with appropriate conditions and it is the recommendation of the staff, the Solicitor, that this settlement would be approved. It would be in the best interest of the taxpayers to remove these issues and put these conditions in place. If this is denied obviously the lawsuits condition which would put the Township on hook for legal fees, potential damages, and of course if ultimately a determination is made that Apex is right in this lawsuit the drilling would continue without any of the conditions that we got, they would just drill and you would get none of what we've negotiated. Given that, it's our recommendation that this be approved. I know this is also going to be on the agenda for the Zoning Hearing Board on Thursday, and again, I thank them they played a very big role and gave us a lot of very useful feedback in coming up with very good conditions and I thank them for their cooperation. With that said at this point my recommendation would be we allow for the public comments on this agenda item and then we vote.

Mr. Sullivan – Okay. Do we have any residences/taxpayers that have registered to speak?

Mr. Graziani – At the start of the meeting Mr. Chairman there was no one that had signed up to speak.

Mr. Sullivan – Is there anyone in the audience that would like to comment and I will start in the first row. You have to come up and state your name spell the last name please and your address and I'll remind you that you have three minutes to speak.

Kathy Baughman – I live at 2120 Ceol Court, Claridge. The only thing that I wanted to comment on is that I've heard this conditions and their addressing things like the light, the sound those types of things but I don't hear anything about the water issues. That's been my concern all along. We know that there are at least seventy people that we've contacted that have signed a petition originally that live within the White well pad and probably more that didn't that we don't know about. I'm still concerned about the water. Can you tell me anything that you have set with conditions that our water is going to be if it's polluted that I'm going to have water.

Mr. Korns – Again, we've added conditions in addition to what is already in State law and that is covered by State law. If there is a contamination then it is a requirement of the driller that they remediate. We also under our Ordinance our original Ordinance requires that the hydrogeological study be provided. We have covered all these additional issues in addition to the State and the Federal and are additional already existing Ordinance restrictions.

Ms. Baughman – I guess I'm ignorant in some of these conditions because I don't know what all the DEP rules are. I don't know if you can answer my question about what they would do if my well was contaminated.

Mr. Shula – You can go online and look that up ma'am.

(Laughing)

Mr. Shula – They can explain it better than we can. It explains that better than we can.

Mitzi Baker – I live at Box 335, Claridge, but I'm on Dutch Hollow Road/Lux Road. None of you live on my road. You don't know what my road is like. We are in a valley. Our Verizon phones can't even get out. The neighbor's at the Beattie well has an outside furnace where they burn their garbage and it hooovers and stinks the valley, anybody that burns it hooovers and stinks in our valley. The trucks that go through with their diesel and their smog it hangs over in our valley. I'm worried about my water and I just fill you sold out and I'm very disappointed in you.

Jason DeStefano – 1075 Red Oak Drive. Before you guys shut me down I just think it's ridiculous that you didn't get the privilege of hiring the firms that are going to be monitoring our air and water. I think that's a gross act of negligence on your part. I understand you were probably strong-armed by a lot of money, but as a concerned citizen that's disgraceful and you will not be getting my vote Mr. Konkus.

(Applause)

Mr. Sullivan – I will ask the audience to please refrain from applause or boos whichever the case may be.

Roxanne Daykon – I live at 5 Highview Circle in Country Farm Estates. My question is I thought the Zoning Hearing Board was public. Their actions. You don't get to have any input on that. How could they change all this without it being any public input?

Mr. Korn – It's a settlement.

Ms. Daykon – It's a settlement? So that negates all the rules that you have developed?

Mr. Korn – It is a legal settlement. One of the exceptions of the Sunshine Act is a settlement of a legal action, but obviously we're here voting on it in public tonight.

Ms. Daykon – Nobody had any chance to give any input. I think you got afraid of three hundred million but what if you would have won? You just caved so easily I'm disappointed I'm very disappointed.

Beth Jamison – 1120 Forbes Lane, Jeannette. It is hard to sit here in the audience tonight and see this paper of your list of resolutions when no one had time to look at them. I know that you're announcement in the paper just said; we're going to be thinking about this tonight. With all the work that we've done as a community and told you our actual thoughts and feelings and scientific evidence of what can truly happen when this industry is in our Township, I'm surprised that this is all you came up with. This is a page and it's a lot of hard work and basically you said, oh yes let's just put up something for sound, yes we'll do something with air. I'm not sure that is enough to protect us, absolutely, I'm not sure who holds Apex accountable when you say that you are going to ensure that trucks do not idle on any well pad. I've watched what's happening right now with the Stewart pad thirty or forty diesel trucks lined up waiting at night because everything is done at night so that the Township and the people can't see what's going on except for people who happen to be driving around calling DEP and going, why are these trucks idling for half hour on a well pad. If that's Apex's industry standard why are they going to do any different for Penn Township than they are for Salem Township? I'm not buying it and I truly think that the mineral extraction overlay is unconstitutional and it's not just that, you've determined that it's allowable that's what you've put into your Ordinance, and like I said many of us oppose that so please remember that.

April Konizer – I live at 317 Dogwood Drive I'm a Delmont resident but I live within a mile and a half of the Quest well pad within a mile and a half of the Quest well pad.

Mr. Korn – Our public comment is for residents and taxpayers only. Thank you.

Ms. Konizer – I have an asthmatic child that is now on breathing treatments and you had an unauthorized release at your well site this week.

Mr. Sullivan – Okay fifth row and I will remind you this is for Penn Township residents and taxpayers.

Mary Hummert – I live at 552 Meadowbrook Road the Backus well is in my back yard. I've been a Township resident since 1977 and I feel that I have the right to clean air and clean water. The American Medical Association is calling for a ban on fracking to determine the health implications. My husband and I don't need health problems because the Commissioners decided to sell us down the river. I'm extremely disappointed. You also will not get my vote.

(Applause)

Hank Hummert – I live at 552 Meadowbrook Road. Mr. Shula to tell somebody to look it up on the internet that's a cheap way out. I would remind all these people take note of who is sitting up here now and come election time I would recommend that we drain the swamp because you bastards just all sold us down the creek. Every one of you. How do you feel about it? Anybody want to answer that?

Mr. Konkus – I stand up for people's property rights sir.

Mr. Hummert – No you're not.

Mr. Konkus – We are doing what we are seeing the DEP...

Mr. Hummert – No you're not, no you're not, my property values are going to be devaluated because of what you clowns are doing.

Mr. Konkus – There is a lot of scientific evidence that shows that the drilling is not harmful so why does the DEP and the EPA go out...

Mr. Hummert – Where did you get your evidence from? Apex?

Mr. Sullivan – First of all I'm going to ask for people in the audience to keep your comments to yourself please. No outbursts.

Mr. Hummert – I'm done that's what I'm telling you guys.

(Applause)

Mr. Konkus – It's the same thing as global warming.

Tracey Mason – 4015 Great Star Court. The air monitoring that you are requiring when there is a (?) does that also include the Quest pad or is Quest completely out of this because it's already been approved, constructed and in production?

Mr. Korn – It's not part of the agreement that's already been approved.

Mrs. Mason – Okay so we continue to get nothing from the Township then because Quest has already been approved.

Mr. Korn – Well I mean Apex has voluntarily done everything we've asked for on this regarding this spill.

Mrs. Mason – Okay so just to also let you know when there was a spill and I was driving past after the spill happened on my way home from work I thought I was going to pass out in my car because it was so strong the two (2) ounces and unfortunately I would have been driving at the time that's how strong it was that's how much it affected me. For two days I had a headache just from the mercaptan that was spilled out there and that was from Quest cleaning it up once, and then coming back a second time to remove more soil, so I know that Mr. Korn you have said that is very minor, but unfortunately for me when you have a headache for two days because of



the spill it's not so minor. I'm disappointed that once again Walton Crossings continues to be a guinea pig and there's no protection for citizens that live in Walton Crossings which is less than a half mile from Quest.

(Audience) That's a shame.

(Applause)

Kenneth Stevens – I live at 724 State Route 130 in Level Green. Out of all your amendments you were reading there conditions I didn't hear one thing about safety of the community. Are you going to give all the firemen special equipment and special training and I mean not just Harrison City I mean you have to go to Level Green, Paintertown, every fire company in here are you going to give them special training and special equipment to fight any so called accident with a well if it burns? Hum? No answers to that? That's what I figured. Money talks.

Mr. Sullivan – Okay nobody else. Item number 4. Consider proposed Resolution 104/2016 motion to approve/deny/table a Resolution of the Township of Penn approving a global settlement to resolve all outstanding State and Federal lawsuits with Apex Energy, LLC.

Mr. Kornis – Mr. Chairman just one thing to add. Obviously the Resolution is a summary of the much larger agreement and in the agreement for the third party monitoring the experts have to be at the mutual consent of the Township so we have to agree to the experts they are using. You may continue.

Mr. Sullivan – Any questions or comments from the Commissioners before I ask for a motion? Okay hearing none I will ask for a motion to approve/deny or table Resolution 104.

Mr. Konkus – I'll make a motion to approve Resolution 104.

Mr. Sullivan – Motion to approve by Mr. Konkus.

Mr. Gwynn – Second. Call Vote. All in favor. Motion carried.

Mr. Sullivan – Hearing none opposed motion is carried. Resolution 104 is approved. Item 5 is there a motion to adjourn if there are no other comments from the Commissioners. Motion to adjourn.

Mr. Shula – I'll make that motion.

Mr. Sullivan – Motion to adjourn by Mr. Shula. This meeting is adjourned.

Respectfully submitted,

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Mr. Alexander Graziani, Township Secretary

Transcribed by: Jeanann Greer, Administrative Assistant Community Development Department