

**HAMPTON TOWNSHIP
SPECIAL HEARING
MINUTES
August 31, 2010
7:00 PM**

Attendance

Chair	Doug Wille
Supervisor	Bob Leifeld
Clerk	Jeanne Werner
Supervisor	Donna Otto
Attorney	Troy Gilchrist
	Vance Grannis

The meeting was opened by Doug Wille in regards to the issues regarding Beissels Gravel Pit on Goodwin Avenue in Hampton Township owned by Marge Beissel and operated by Solberg Gravel. The township attorney Troy Gilchrist was present. Troy reviewed the letter written by the township to Marge Beissel. He also reviewed the town ordinances and prepared a draft resolution (see attached resolution 2010-9-1) to review and make any necessary changes if needed.

He gave an overview of the situation. On August 17th regular board meeting, there were concerns brought forth to the township board regarding the safety of the quality of water for the neighbors of the gravel pit (sample of dirty water was brought to the meeting. The residents stated that the operators of the gravel pit was in the water supply and was making sediments in the neighboring wells. The board felt it was in the best interest to issue a "stop work order". On August 18th, a letter was sent by the township to Marge Beissel to stop work in the gravel pit until further investigation.

Troy had stated that the town board had complaints about the welfare of the residents and acted on the complaints. The question is, are they provable with solid facts and do they violate the ordinance and will the board repeal their stop order?

Angel Weiland had stated that "as to the stop work order, they are in violation for there was not a permit issued". The concerns are with the grown water and the agency that were contacted, had mentioned that these were township issues. She feels that the grown water has been polluted and was concerned that they will have to drill a new well.

Mike Wagner questioned how deep the clay is? He just wants it to be legal and doesn't want to wait until the water gets contaminated.

Dan Beissel explained that there is only a 50 foot wide strip of clay and the rest is sand and gravel. Troy, the township attorney had explained as an example that there was another construction company in another county that drilled into the water table and the DNR permitted it. Angel Weiland was

wondering about the proper permitting. Troy stated if there is no water pumping, there is no need for a permit. Township is not in the position to make that decision.

Jim Carlson wanted to know about the grandfather ruling. Troy explained that the community adopted the zoning ordinances and the sense of use was established before the new ordinance zoning was in place. You would not be able to allow new people to come in and continue but you could put restrictions on after, if there were an expansion, but can't change the existing established gravel pits. The gravel pit was there before the board adopted before zoning ordinance (interim use Permit) so they have the rights.

Jim Carlson was questioning if they have to follow the current ordinances like the noise, time and dusk ordinance. Is it illegal to take one mineral out to excess another one? Jim read the meaning of mining.

Doug Wille stated that the outside agency needs to be contacted for the township don't know the rules and are not in the position to deal with such issues.

The question is there a base for the board to stop the business or force them to get an "interim permit" and then you can address the operation and the noise. Dan Beissel stated that he wants to deal with facts not rumors that have been circulating.

Donna Otto stated that there are three active gravel pits in the township and questioned if the grandfather rights go with the sale of the property? Donna stated that we are not trying to get rid of the use, just wanted to clean it up.

Jim Carlson has stated that the pit as grown with more backhoes and trucks than years ago when it was grandfathered in.

Vance Grannis (attorney for Solberg) stated that if there are concerns, they are requesting that the resident put a letter together of the reasonable concerns not unreasonable (like shutting the pit down). They (Solberg's) will review the letters of concerns and try to work with the resident.

Jim Carlson stated that these issues need to be addressed. The Beissels stated that the board had no authority to shut the pit down.

Doug Wille stated that he did not know about the gravel pit and did not know the location of the pit until the last meeting when residents came and expressed their concerns. As it turns out, we need to have proof not allegations.

Troy explained that the board reasons for shutting the pit down was the immediate threat of health safety and that is why the stop work order was sent. Jim Carlson stated that the township tried to protect the best interest of the neighboring properties. Dan Beissel stated that you need to have facts. Troy Gilchrist (attorney) handed out copies of the resolution that he had prepared.

Doug had contacted Janel from the DNR, and she stated once she receives some information, she will investigate. She stated that she has not received anything back from Jim Carlson (information sent to him). Jim stated that he has received the "well interference Packet" and has not completed it yet. The DNR stated that they can't do anything until they receive the packet back.

Dan Beissel explained the well on the property was put in 70 years ago for the cattle. It was only 77 feet deep and was not a registered well and it was very shallow (sand point). That is the well that was replaced and paid for by the contractor.

Nick Weiland was questioning why his water was cloudy and his water screen was plugged. He also stated he would like to see his water clear. He stated that he feels something is disturbing the "Prairie DuShane" vein. Donna Otto asked how big of an area are they digging in? The operator stated that there is between 15 to 20 acres.. Maybe 50 x 100 has the heavy blue clay.

Troy stated that there is no base reason to continue the stop work order. There has been no violation to justify this action. He stated that he thought it was a good idea to have this special meeting.

Carlson stated that the DNA & PCA wanted the township to handle the problem. Troy stated that the township is not the regulator of ground water. He also stated that you need solid proof to issue a stop work order.

Doug Wille stated that the board felt that they had a right to issue the order and this special meeting was called to make a decision on the pit, nothing else.

Donna Otto stated that they were not happy with Rachels work (prior operator of the pit) for they violated the rules (working early and too late).

Vance Grannis (attorney of Solberg's) stated that they can work that out with the contractor that violates the rules, that is part of construction.

Doug stated that Troy will do some more research to see if the operator "Solberg" will need to apply to "interim permit".

Carlson had asked if they are granted an interim permit, do they need to follow the current ordinances? Doug stated ""yes" that they would have to follow the ordinances. At this point, Troy read through the resolution that he had worked up. He also explained the grandfathering protection. It is a pre existing use.

Angel Weiland had asked if the pit was going to continue to expand, where is there a limit? When does the "grandfathering" stop? Doug Wille stated that the board could require them to fence the area. Troy stated that we are working with stage#1 (the resending of the stop work order). The operator stated that they would consider constructing a fence but was not going to do that if the board was going to stop the work in the pit. The operator of the pit stated that they want the pit to be a good neighbor and wants to address the concerns put the pit will continue to operate. The complaints can be worked out.

Jim Carlson stated he feels the "grandfathering" should only be the way the pit was at the time of the new ordinance, not on an expanding pit. Angel stated that if you put an addition onto a house, the expansion of the home needs to follow current codes and she feels the pit should be the same. Doug Wille stated that they are not disagreeing with the points of view but we need to address the "stop work" order.

Jim Carlson had requested that the resolution wording be changed regarding "no evidence of present violations of ordinance"

Donna Otto made a motion to adopt the resolution with revision, seconded by Bob Leifeld . It unanimously passed.

Troy will make the changes and will forward it to the clerk to be signed by her and the chair. The clerk has been requested to send a copy to both the operator and the owner (Marge Beissel).

Water issue on 225th & Lewiston was discussed. It was discussed to leave the culverts as they are under 225th and to install larger culverts under Nick & Angel Weiland driveway. They would like to install 2 - 18" culverts. They would work with "Soil & Water" The following is the tough estimation of the different grades of culverts:

Galvanized \$5000-\$5500
Concrete \$5500-\$6000

Bob stated that it would toughly cost \$2500-\$3000 to install the culvert by Otte Excavating, Inc. The board discussed the option to pay for the culverts to fix the water problem. Nick Weiland offered to install the culverts free of charge. It was directed to the clerk to put on Septembers agenda.

Doug Wille made a motion to adjourn the meeting seconded by Bob Leifeld and unanimously passed.

The meeting was adjourned at 8:36 P.M.

Respectfully Submitted

Jeanne Werner, Clerk
Hampton Township

Date signed: _____

Doug Wille, Chair: _____

Jeanne Werner, Clerk: _____

9-21-10





