

ANDOVER TOWNSHIP COMMITTEE MEETING MINUTES

**BOB SMITH, MAYOR
GAIL PHOEBUS, DEPUTY MAYOR
PHIL BOYCE
MICHAEL LENSAK
THOMAS WALSH**

SPECIAL MEETING

**JANUARY 08, 2010
3:30 P.M.**

CALL TO ORDER The special meeting of the Andover Township Committee was called to order at 3:32 P.M. by Mayor Walsh, followed by a salute to the flag.

ROLL CALL: Present: Mr. Boyce, Mr. Lensak,
Mr. Smith, Mayor Walsh,
Absent (Excused) Ms. Phoebus
Also present: Clerk/Administrator Thompson, Attorney Semrau

OPEN PUBLIC MEETING STATEMENT Statement of compliance with Chapter 231, P. L. 1975 was made by Mayor Walsh.

APPROVAL OF AGENDA Mr. Lensak moved to approve the agenda, seconded by Mr. Boyce, carried unanimously. After some discussion it was decided that a short over-view of the main topic of this meeting's Executive Session which is Susquehanna-Roseland Project would be given prior to going into Executive Session. When the committee returns to open session the Public will be given an opportunity to speak.

At this time Attorney Semrau stated for the record the following: The primary reason for this meeting today is because the township is involved in a group that is opposed to the request by Public Service to have a 145 mile, 500 KB transmission line that will run from Florham Park up, past and through Andover Township. There are a number of municipalities that have joined together to form the "Stop the Lines" coalition which Andover Township is also a member of. The matter is before the Board of Public Utilities and the case has essentially been put on, briefs have been submitted and there have been other parties that have intervened as well. Different public entities have participated and have put their comments on record. A decision is due to be forthcoming with no exact date but thought it might be as soon as next week but possibly later.

In the mean time Public Service has made a proposal to all of the participating municipalities along the power lines for a settlement. They put together a formula that would result in a settlement of the matter, a settlement from the stand point where they ask the township to essentially walk away from certain rights, preserve other rights and then there's a maximum amount of compensation the township would be entitled to. Under that particular formula the actual total that was proposed for Andover Township is \$395,165.00. We are here today to discuss that proposal, discuss legal strategy, negotiation strategy from that particular standpoint.

The need for Executive Session is when that discussion goes on if in fact the attorney is giving certain parameters of negotiations and things of that nature, the record doesn't reflect what perhaps may be the boundaries of what the committee will authorize the attorney to do. From the other standpoint that the Mayor and other members have mentioned it is certainly beneficial to get input from the public but from the standpoint of just trying to go over the legal pros and cons and negotiation strategy that is where Executive Session would fall into the equation.

The coalition has also been somewhat involved with this discussion. There have been conference calls with Mr. Lensak and Mr. Smith participating with respect to the coalition and now this has moved on and communication has become more intense. The Attorney has had communications directly over the past few days with Public Service counsel directly. That is where we are right now and the purpose of the Executive Session is to evaluate the proposal and get some direction.

EXECUTIVE SESSION At this time Mayor Walsh asked for a motion to go into Executive Session to discuss Susquehanna-Roseland Project and Tina Sugar, Court Administrator. Mr. Boyce moved to go into Executive Session at 3:39 pm, seconded by Mr. Lensak, carried unanimously.

PENDING LITIGATION:

1. **SUSQUEHANNA-ROSELAND PROJECT**
2. **T. SUGAR, COURT ADMINISTRATOR**

(See Insert Attached to These Minutes)

REGULAR MEETING RESUMED

Mr. Lensak moved to conclude the executive session at 4:46 P.M., seconded by Mr. Smith and carried unanimously.

Attorney Semrau summarized the discussion regarding Susquehanna-Roseland Project as follows: The Committee had a very good discussion in Executive Session asking questions about the proposed settlement and aspects of the case. The Attorney even stepped aside during the discussion and had another call from the counsel for Public Service regarding the terms of the settlement. Even during the session Mr. Lensak received even more information as to where this case is and some of the developments with respect to the BPU and it is the consensus of the Committee that we should consider meeting again before the deadline expires which is Tuesday afternoon to see what has transpired on the Monday before.

Monday the coalition will be speaking again and there are certain questions that the Committee has asked the Attorney Semrau to ask legal counsel for PSE&G. By Tuesday morning, if the deadline is still Tuesday afternoon, that's been set by PSE&G, then the Committee would meet again early on Tuesday morning to revisit this matter. The BPU was supposed to reach a decision by Wednesday but that seems to be put off at this time. So, PSE&G might extend the deadline to respond to this proposal. If that should happen, that the deadline is extended out, then there would be no need for such a meeting of the Township Committee on Tuesday morning.

Attorney Semrau continued that he felt the best strategy discussed would be to wait and continue to gather as much information as possible between now and even if it means to come in Tuesday morning for a special meeting before any direction or determination is formally given to Attorney Semrau.

At this time, Mr. Boyce made a motion to meet in special meeting on Tuesday morning, January 12, 2010 at 7:30 am with this specific item on the agenda for continued discussion. Mr. Lensak seconded the motion, carried unanimously.

REGULAR AGENDA

PUBLIC COMMENTS

Mayor Walsh recognized Matt Lally, Township resident. Mr. Lally asked what rights is PSE&G asking the township to give up and also what are the other town's intentions at this point? Attorney Semrau summarized that the participating municipalities are being asked to formally waive their rights with respect to the BPU application. They are also asking the municipalities to waive any opposition in the future to this project. The Committee understands that if you accept the settlement that you have to step aside from the existing case but where exactly does that leave us for future discussion and possible objections. We do not know what position the other municipalities have taken at this time. A number of them have not had special meetings to discuss this. The coalition is considering having a settlement meeting with PSE&G down at the BPU for settlement discussions. The only municipality that he is aware of that took formal action to accept a settlement is Jefferson Township who was not part of the coalition.

Another aspect discussed is if Andover Township were to accept the settlement at this time and in future other municipalities settle and receive a higher amount due to an adjusted formula then Andover would have the right to go back and negotiate insuring that we will have the right to get the best settlement proposed by PSE&G.

Mr. Lally voiced his opinion and concern that the biggest part of this settlement is that it might be that PSE&G is looking more to the future for a round two with this project and it would be more important to their plans to have the affected municipalities not be able to give future objections to a revised project if the current project not be approved at this time. He also asked if the township voted to accept the settlement and the project is not approved, would the township still receive the money and the answer was no and they would not be held to no future opposition. The settlement would be null and void.

Mr. Lensak commended Mr. Lally on his astute understanding of this case. This is why Mr. Lensak was anxious to have the public give input. Mr. Lally was right on point with his take on this whole situation. The idea that if the municipalities give up their right to oppose such a project in the future that would be eliminating much of the outcry against the project thus influencing the Commission's decision to be more favorable to PSE&G at the later date. It could be that at this late hour this is precisely why they have come forward with this settlement deal because they are looking more to a future project that would be fine tuned from the original one.

PUBLIC COMMENTS (CONTINUED)

At this time Attorney Semrau stated that an issue that has been receiving the most dialogue about with the PSE&G attorney and the most feedback as well from the Township Committee has been what rights would we be waiving? It is one thing to step away from this specific application that could go forward anyway if the township were to step out, but now we have been asking what type of wetlands applications are down in Trenton for Andover Township which are being considered and what else is pending. There is a Highlands applicability determination pending as well. The Committee wants to know what is pending and the consensus that Attorney Semrau has received, informally, and based on the questions the attorney has, no one here would consider waiving anything else down the road in the case and that is what has been told to PSE&G.

Another question was posed if signing away certain rights now regarding future projects could that also encompass a possible relocation of any sub stations or switching stations? Attorney Semrau replied that at this point he does not believe that the Township Committee would entertain the settlement if it was to incorporate waiving anything more than the fact that they would have to step aside from this application because of that concern. Mr. Lally questioned if it has been considered that at this time in the next couple of weeks that it would not be so detrimental if the township stepped aside from this application only and accepted the settlement that it would be an easy almost \$400,000.00 gain for the township without risking too much for now just as long as they would not be signed away future rights. It really would not be affecting the BPU's decision right now.

Attorney Semrau replied that at this point the township is still considering all the possibilities with this case. Mr. Lensak stated that it is really imperative that we do not put the township into a position of giving up any future rights to these projects. Discussion followed whereby comment was made regarding the fact that Jefferson Township was the first municipality to more or less cave in and take the money and that is obviously the tactic by PSE&G to divide and conquer. It is really important for the municipalities to try and stick it out together.

Stan Christodlous of Wisteria Rd. made a comment that this settlement seems like a bribe or extortion. Attorney Semrau refused to make additional comment. Also Mr. Christodlous asked if in fact PSE&G pays out all of these settlements, would they then be able to raise rates for the public in order to recoup their costs. Committeeman Smith commented that is exactly what they would be able to do that it states right in the agreement that they reserve the right to increase rates in order to recoup their losses. Committeeman Boyce stated that is how public utilities operate when they are spending money to upgrade infrastructure they will in turn raise rates to cover their costs. The BPU has to approve the increases but they usually do.

Committeeman Smith stated that accepting the money might sound good now in a time of budget crises, but the benefit of that money would lose its value really fast. The Committee questioned would the general public be accepting of the Township Committee's passing on the money even if the project gets pushed through and we come away without the money and still get the project. That is the dilemma we face. The general consensus of those present seemed to be that no one would fault the Township Committee for not taking the settlement and instead continue the fight.

PUBLIC COMMENTS (CONTINUED)

Hearing nothing further Mayor Walsh asked for a motion to close the public portion, Mr. Boyce so moved, seconded by Mr. Lensak and carried unanimously.

Mayor Walsh stated that that the Township Committee plans on meeting on Tuesday, January 12th at 7:30 am.

ADJOURNMENT No further business appearing before the Committee at this time, Mr. Smith moved the meeting be adjourned at 5:12 P.M., seconded by Mr. Boyce and carried unanimously.

Respectfully submitted,

Tom Walsh, Mayor

Vita Thompson, R.M.C.
Clerk/Administrator

TOWNSHIP OF ANDOVER

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Township Committee of the Township of Andover on the 8th day of January, 2010, that:

- 1. During this Special Meeting, the Township Council shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):**
- () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
 - () b. (4) A collective bargaining agreement including negotiations.
 - () b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
 - () b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
 - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.

PENDING LITIGATION:

**SUSQUEHANNA-ROSELAND PROJECT
T. SUGAR, COURT ADMINISTRATOR**

- () a. (8) Personnel matters.
- () b. (9) Deliberations after a public hearing that may result in penalties.
 - 1. The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Adopted: January 08, 2010

Moved: Boyce Seconded: Lensak
Voted Aye: Boyce, Lensak, Smith, Walsh
Voted Nay: None
Absent: Phoebus
Resolution adopted. January 08, 2010
