

**MINUTES OF THE MARTIC TOWNSHIP BOARD OF SUPERVISORS
SPECIAL MEETING
May 6, 2015**

PLACE: Marticville Middle School Auditorium, 356 Frogtown Road, Pequea, Pa. 17565

ATTENDANCE: Duane Sellers, Carl Drexel, Beth Birchall and Richard Drumm, Jr., Township Manager: Karen Sellers, Township solicitor: Josele Cleary, Speakers: Elam Herr w/ PSATS, Jim Miller, Jr. and numerous residents and public.

CALL TO ORDER: Duane Sellers called the special meeting to order at 7:00 PM.

Duane Sellers began the meeting by reading the Rules and Regulations for the Conduct of the Special Meeting of the Martic Township Board of Supervisors of May 6, 2015. They are attached to the official minutes in the minute's book. There being no questions from the public as to the rules and regulations, he proceeded by introducing those present.

Elam Herr: Asst Executive Director for the PA State Association of Township Supervisors and has been with the association since 1976. Mr. Herr primarily represents the association before the PA General Assembly and executive departments on legislative and policy matters affecting PA Townships. He is also responsible for the planning, development and administration of the Association.

James Miller, Jr.: Elected to the Lancaster County Government Study Commission in 2006-2008 to check into the advisability of Home Rule for the County. Currently a Realtor for Berkshire Hathaway Homesale Realty. Past Girls Lacrosse Head Coach for Elizabethtown and Penn Manor. Currently asst Boys Lacrosse Coach for Hempfield HS. Member of the LC Planning Commission and member of the Manor Twp Planning Commission.

Josele Cleary- Martic Township solicitor

Elam Herr gave his presentation. See attachment to official minutes in minute's book. He began by stating that from the association's stand point, it doesn't matter if a township is under the township code or home rule, you may still be members of the association. He is only making this presentation as to what home rule is and what you can and cannot do with home rule. He will not to give his opinion as to whether someone should vote for or against it.

Jim Miller, Jr. gave his presentation by stating that he is a resource for information on his experience with the commission he sat on. He is not for or against the issues in Martic Township. He was elected to the Lanc. Co Study Commission the fall of 2006. They began by examining and studying the current form of government. Second phase of their work was to write the charter. The third phase was to present the charter to the public. It was defeated at the polls. It took their commission 18 months from start to finish to complete the whole process.

Question and answer portion:

Conrad Miziumski 128 Pinnacle Road: He stated that they have assured everyone that Home Rule cannot stop the pipeline. He asked if a Home Rule charter or an ordinance influence in any way the establishment and continued presence of a federal or state approved project, such as a natural gas pipeline? Elam Herr responded. He stated that he can't say for sure if it could make a difference in the future, however with the cases already on the books, it has not made a difference. A township in Pike County passed a similar ordinance and found itself in Federal Court. The court ruled against the township, assessed damages against the township. Then required the Supervisors to raise taxes to pay the award. The township had approximately a \$250,000 budget; the award amount was \$6 million dollars. Regarding the pipeline, recommended making comments to FERC.

Dave Walter, Sr. 477 Martic Heights Drive also President of the Rawlinsville Fire Company: Is it possible to write a Rights based ordinance into the Home Rule charter that has already been rejected by

the current Supervisors? If a Home Rule Charter would be enacted that includes a Rights Based Ordinance and is challenged in court, causing bankruptcy, what happens to the Township's discretionary spending, such as the \$35,000 that the Township currently donates to the fire company on an annual bases or the premium that the Township voluntarily pays for the fire equipment insurance? Elam Herr comment. Yes the new Home Rule Charter could include an ordinance that the Supervisor's have already rejected. Now can they write into a new charter anything illegal, such as going against the Federal or State constitution, no. If they are put into place, like what happened in Moira New Mexico, the courts will probably throw it out. To file bankruptcy, it is a bit more difficult for a township to do. Be classified as a distressed municipality, Act 47. Petition the federal court for bankruptcy, if that's granted, the judge takes over. He determines what taxes will be levied. The judge will require that the normal governmental costs are taken care of. Not sure if the judge would still allow discretionary giving.

Bonnie Stoeckl 18 Trolley Road: Critics of Home Rule argue that the implementation of a charter could bankrupt the Township, is there any history of that ever happening? Elam Herr responded that he knows of none that went bankrupt just because they adopted a Home Rule charter. Again it is no different than municipalities that are under their respective codes. If something is written into the charter that is illegal, who knows what the courts will do.

Kevin Boyer 10 Ridge View Drive: If a charter is passed and the community decides it's not functional, what is the time frame that the community has to turn this back around into a functioning township again? Elam Herr commented that if the question for Home Rule is voted down, it may not appear again for 5 years. If the decision is made to adopt a new charter, you have to live with it for 5 years, before the question may appear again to form another study commission.

Christine Morgan 23 Bridge Valley Lane: She understands that when she votes on the 19th, she will be voting for 7 commissioners, she only knows of 7 and their views. How is she to make an informed decision on how to vote, when she doesn't have information on the other 6 running? Elam Herr commented that we need civics brought back to the schools; people don't go out to vote. There is nothing in the law that says that people running for the commission must make themselves known to the voting public. Duane Sellers commented that the seven, who are running, that she knows of, is running from a PAC, which has raised funds to put their names out there. The other 6 are running independently on their own merits and most likely will be going door-to-door to talk to people. She asked if this will give people enough time to fact-check information. Duane Sellers commented that there has been information placed in the advertiser with the list of names of who have been endorsed by the republican committee. Josele Cleary commented that the Board of Elections has on their website a sample ballot so that everyone can see ahead of time who is running.

Don Kauffman 159 Lakewood Drive: Curious as to how many 2nd class Township's there are in the state of PA and how many of those operate under Home Rule? Elam Herr commented that there are 1454 townships of the 2nd class in PA and since 1972, there are 5 optional plan and 21 home rule.

Chris Collins 911 Susquehannock Drive: Is it possible for the charter to be written in such a way that allows for initiatives to be written to lower taxes? And also isn't it possible for all residents to give input into writing this charter and how? Elam Herr commented that yes it could be written to lower taxes, mostly that's not an issue that comes up. When the charter is written it is written to say there will be x amount of taxes and property taxes will not exceed 14 mils, even though Martic currently doesn't have property taxes. Because of the budget, it is very difficult to raise and lower taxes in the same cycle. Jim Miller commented that when they wrote the charter for the county, they wrote both initiative and referendum into the charter. They struggled with the numbers for signatures. He believes in initiative, to get the legislators to take a look at the proposal. He is opposed to referendum, because we have a representative form of government. California is the real world example of the referendum process and they have huge fiscal issues. It is similar to mob rule. If it only takes 1% to get a question out for a vote, it's put on the ballot, then why elect anyone? They struggled with getting the public's input on writing the charter; very few people were interested in the process. They didn't have large audience attendance at their meetings. They held their meetings though out the county to allow people to attend and very few people attended. Elam Herr stated because of the Sunshine Law, these meetings have to be open to the public. The commission is also required to hold at least one public hearing.

Tim Spiese 55 Covered Bridge Road: Elam Herr, when he spoke of the representative form of government, stated Supervisors, Legislators, Congressmen who “represent us”, why use the quotes? Elam explained that he was trying to separate, supervisors, council, representatives, etc. They are representing you; it is not participatory where it goes back and forth. He wasn't trying to make the assumption that they are not representing us. The difference between participatory, of which case everyone here would go back and forth like we are doing now, instead of electing someone who will take the vote. It was not meant to be derogatory towards anyone, but to try and explain it. He used the term to define itself.

Paul Zegley 13 House Rock Road: Asked Jim Miller if it is possible that our commission could possibly find ways to save our township money as well as giving the supervisors and residents more power? Jim Miller commented that as far as saving money, he's not sure that that would be a function of the commission. The commission is charged with evaluating the current government. It is the structuring of the government, not the functioning of the government that the commission looks at. It's not the administrative or legislative process, but the framework that that operates in. If your current elected officials make good decisions, then they do. It's not a given that any form of government is going to assure that good decisions are made, its only as good as the people you elect. You have to be careful as to why you are looking at Home Rule. Paul Zegley was of the understanding that you could actually give the Supervisors more power, is this true? Jim Miller stated that for them, early on they had to come to terms with the current form of government; you can only do what you are permitted to do. If you change to home rule, you can do anything except what is prohibited. The concept that we are changing from what is permitted to everything except what is prohibited is the simple way to grasp what a home rule charter can do for you. Paul Zegley asked; Of the township's who went to home rule, how many have switched back? Elam Herr commented that a couple have switched back. A township in Allegheny County, went Home Rule in the early 70's and by the end of the 70's it had switched back because they had wrote their charter so detailed they couldn't do anything without looking at the charter. There are 2500 plus townships, cities and boroughs in PA. There are 93 cities, boroughs and townships in the state that have gone home rule or optional plan. Of the 2nd class, like Martic, there are only 21 home rule and 5 optional plan.

Dannel Wissler 1028 Truce Road: In regards to the agricultural community, of the Township's that have adopted home rule, what kind of impact has it had on the farming community regarding regulations? Elam Herr commented that Home Rule won't have much of an effect of the farming community, because of the ACRE law. The Right to Farm law, Nutrient management Act, is all statewide statutes Home Rule charters cannot change.

Ralph Huber 247 Red Hill Road: Home Rule, as he understands it is democracy at its purest form. Could the charter be written to change how voting is done? The election law currently states 1 man 1 vote. Elam Herr stated that you cannot change election law or any of the state enacted laws, currently on the books. If a charter tries to address issues that are currently under the Right to Farm, the farmer can bring action against the Supervisors.

Jay Kreider 22 Quayle Run: As a resident for 15 years, in his opinion everything has been fine. He's been very satisfied with the current form of government. He has seen very frugal spending, he has seen surplus in the township for many years, he has seen road equipment that has been maintained and money has been wisely spent in regards to replacing items. His question is; what actually prompted this Home Rule thing, what is the underlying reason? Duane Sellers commented that Martic has a strong heritage and conservative fiscal responsibility, which is a requirement of being a township supervisor. As to what drove the issue of Home Rule, would be strictly his opinion and everyone has their opinions. Everyone knows the pipeline has been a big issue. Mr. Kreider's second question: If we know, and its been stated by many that the pipeline can't be stopped because it falls under federal regulations, then what again is the underlying reason for the push for home rule? Duane Sellers stated that home rule in and of itself is not the issue, the devil is in the details and how the charter would be written. Any elected official or government body, in this day and age, would be sued at the drop of the hat. If the commission doesn't do due diligence in writing a charter and to keep the township away from some of those risks, that would not be a good thing.

Barry Finberg 142 Deerfield Drive: Home Rule regarding local issues, if it is written into the charter, doesn't a new charter have more teeth than the 2nd class township code? Elam Herr commented not necessarily. What it does is potentially allow, depending on how the charter is written, to give citizen participation, but as Mr. Miller commented the participation just wasn't there. People just aren't interested in government, unless there's a big issue taking place. When everything is the normal, everyday, mundane, no one is interested, whether it's home rule or a 2nd class township. Mr. Finberg's 2nd question: Please clarify your statement that no municipalities with home rule had any success against pipelines and isn't it true that State College had issues with a pipeline even though it was state run, didn't the home rule charter strengthen their stance? Elam Herr stated that State College passed the Rights Based ordinance due to fracking, but keep in mind that there most likely is no Marcellus shale under State College, therefore no one has had a need to challenge their ordinance. All of the cases, like in western PA, twice has gone down in federal court. There is currently a case in Elk County. The Rights Based ordinance has not been upheld in the courts. And now the federal ones, like New Mexico, where it was thrown out. Does it give you any more power, only if it isn't challenged. If it is challenged, and the court assesses damages, then you're going to have to pay those.

Carl Strickler 15 Harbor View Drive and Chief of the RVFC: We know that there is a cost involved with going to home rule. There is currently a budgetary plan in place in Martic Township for the current year. If the Home Rule gets voted through, and the concern is when and how can money be allotted to the commission to do their study. If the Supervisors now must pay unbudgeted money to the commission within this year, are they now considered fiscally irresponsible or are they considered being forced to make payments to the commission? Elam Herr commented that he doesn't know what Martic's budgetary commitments are; you can move money around within the budget, following legal guidelines. They could also borrow money and pay it back during the next budget cycle. Does this make them unfiscally sound? Not necessarily. Keep in mind that if they borrow money today, they may need to raise taxes tomorrow to pay back the loan. The bills that they receive must still be paid monthly. His 2nd question, the fire company is concerned with the outcome of the municipality, because it will be a direct result as to how they will operate. They are incorporated and recognized by the Township. They currently receive an annual donation from the township, which helps them finance their operation. It is hard to get volunteers; the expense to operate is always on the rise. They've heard from the insurance provider that there is a chance they could lose the insurance. Elam Herr commented that worker's comp insurance, by the Worker's Comp Act, says that the municipality is responsible for the worker's comp coverage for fire companies, they will not lose. General liability insurance is something different, and depends on what the charter says. The volunteer fire company is an indispensable part of the community. If PA would go to all paid fire companies, the cost to PA would go to 8.2 billion dollars. Completing his question, as they come up with a new charter, can they implement something within the charter that can take away some of the current characteristics, for instance require annual physicals etc? Elam Herr commented that the fire company is a separate entity from the municipality. Any charter which would try and regulate an independent entity, such as the fire company, is going to throw up red flags.

Adam Gill 107 Oak Glen Road: Commented that the catalyst for bringing forth home rule is the pipeline, but the reason is because people feel helpless. Of the municipalities that have enacted home rule, have any of those raised taxes at higher levels than townships that have stayed with a Board of Supervisors? Elam Herr commented that he doesn't know. There are approximately 10% of municipalities that are over the 14 mil tax rate, but they have no records as to who may or may not be home rule. He does know that home rule municipalities have raised their taxes, just like everyone else has. Mr. Gill asked: in your experience, has home rule raised them at a higher level than townships? Mr. Herr stated that townships and home rule municipalities that provide more services, have see their taxes go up. If you look at a couple home rule townships in Delaware County, they are a full-service community, more suburban/urban, their taxes have gone up.

Charlie Braught 40 Raven Crest: There is no statistics to say if home rule will increase your taxes or create higher taxes? PSATS has done no research to see if it has or hasn't caused more taxes. Primarily because when he does these types of discussions, he's not trying to defend it. He is only stating that the tax issue is the main issue, once charters are written, for the defeat of home rule. The other thing ironically is what the name of the football team will be. Mr. Braught's 2nd question, he had read the amended Lanc County Home Rule study and saw where it took 13 months. Mr. Miller

commented that they started in December 2006, did the initial report in August 2007 to write the charter and August of 2008 presented the final charter with a preliminary final report and fine tuned the report. The charter had to be done by a certain date, but the report didn't need to be done at the same time as the charter. Elam Herr stated that when the charter is done that determines which ballot it will go on.

Carl Drexel 725 Martic Heights Dr.: The pipeline is the main issue that started home rule and a resolution was passed prior to November opposing the pipeline. Then a Rights Based Ordinance was presented to the Supervisors, because the Board turned that down, here they are with home rule. How probable is it that the study be completed and a well written charter be ready by September 1st of this year to oppose the pipeline with a Rights Base Ordinance included, by November's election? Jim Herr commented that that is a very tall order! The first step is to do the research. Look at Martic Township's current government, look at other municipalities and that's the due diligence portion of the process and probably the most important part of the process. Writing the charter is just writing the charter, but the difficult question is should we? You have to ask, what's wrong with the current government? And you have to make an argument for that. That's why he read his study's report that was their argument for writing a charter, here are the things we found in their opinion that are deficient and we want to try and solve. The second step then is to write the charter and proving it addressed the short comings they identified in the study phase. So can it be done, yes, but you need public meetings, public input, travel to a few municipalities with home rule. The time frame indicated would be a very compressed time frame.

Duane Sellers thanked Steve Quigg who was running the sound equipment for the meeting,

Duane Sellers commented that regardless of whether you are for or against home rule, it is imperative of the voters to vote for good people to represent you, either for the commission, for home rule or supervisors. That burden lies with everyone to get out and vote.

He also stated that in regards to Christine Morgan's question as to who is running for the commission, because tonight's meeting was not a campaign trail, tonight was about getting information out so that you can make an informed decision on how to vote.

They're being no further business the meeting was concluded at 9:03 pm.

Respectfully submitted,

Karen D. Sellers
Martic Township Manager