

**Minutes
Throop Borough Council
Special Meeting
to Discuss the Purchase of Property
from Greenview Development,
Anthony J. Rinaldi
Tuesday, October 21, 2003**

The meeting opened with the Pledge of Allegiance.

“God Bless Our Military and the Coalition”

ROLL CALL:

Members of Council:

Anthony Chrzan - **P**

Vice President - James Barnick - **P**

President - Thomas Lukasewicz - **P**

James Mellody Jr. - **P**

George Marushock - **P**

Daryl Menichetti - **P**

Joseph Barone - **P**

Mayor - Stanley Lukowski - **P**

Solicitor - Attorney Louis Cimini - **P**

Treasurer - Lenore Dolan - **A**

Administrator/Secretary - Elaine Morrell - **P**

Audience comments on tonight’s agenda: None

Council President discussed events occurring since the Oct. 14, 2003 meeting with regard to the purchase of property from Greenview Development, Anthony Rinaldi. An extensive search was done to see if any stipulations existed since the time of the land sale on March 27, 1972 from Throop Borough to Mr. Rinaldi. The motion stated, *the sale is subject to certain conditions to be specified by borough council*. The search did not uncover any conditions or documentation in support of the motion.

A letter was faxed earlier this evening to Throop Borough from Atty. Rinaldi regarding the agreement of sale. *Council President read the letter received*. He expressed his discontent with the letter, especially the statement in the letter that council president would not sign the agreement. *Marushock asked, that was true, correct?* Lukasewicz continued, saying an agreement of sale was received at the borough (he believed in Sept.), sent to Robert Kalinoski from Atty. Cimini.

Lukasewicz believed there was supposed to be more deliberations and negotiations with Mr. Rinaldi. He didn't know what happened with the negotiations and did not see the need to at the time because there was a lot in the agreement that was totally prepared by Atty. Rinaldi with no deliberations from the borough solicitor. *Menichetti asked if he, the solicitor, did not receive it.* Lukasewicz thought that when you're going to sell something that both lawyers usually negotiate.

Lukasewicz said the agreement was received Sept. 15, a vote taken on Oct. 14, and then on Oct. 15 he was at a local business when a councilman wanted to give him the agreement for his signature. He thought this improper. *Menichetti said, but we did vote on it, it was passed and told Lukasewicz he was distorting the facts.* Lukasewicz said there was no distortion of facts. He would not sign a contract that way until it was reviewed with our solicitor. Then in the interim, Mr. Barone decided he wanted to change his vote so there was a need for a meeting. *Menichetti asked how he could change a vote he didn't cast. Barnick stated he was not changing his vote and we were only here to discuss and possibly vote whether we were still interested or not.*

Lukasewicz also said he was not going to change his vote and wanted to know how a project that should be put out for bid could be lump summed into an agreement of sale. The purchase of land is one thing but removal of a mountain of spoils on the land has to be properly bid out. The bidding process could not be side stepped or avoided. *A discussion ensued regarding dates of the agreements and negotiations (re-negotiations).*

Marushock stated it was a basic contract. Lukasewicz and Barnick both stated this was no basic contract, he wants an approval for a subdivision which he lost years ago. There is no subdivision and the land is just vacant, dead land, period. *Menichetti said, and that's what you want, just vacant, dead, land.* Barnick said he didn't want it and didn't make a motion to buy it. *Menichetti wanted to know who's asking for subdivision approval.* Barnick said it was right in the contract. Lukasewicz stated that borough council could not give subdivision approval which was right in the contract for borough council to sign. He could not sign a contract saying he's going to guarantee him or give him subdivision approval.

Barnick read from the agreement of 10/15/03, *contingency of final non-appealable subdivision approval with respect to the conveyance of the Throop Parcel to the Buyer and final non-appealable subdivision approval with respect to the remainder of the Village Square tract, etc., if it so desires.* He said, how about that? You even gave away the county because the county has to approve any subdivisions. *Mellody, Barnick, speaking at once.* Mellody: The agreement says conditional and contingent upon issuance by the Borough of Throop/Planning Commission of final non-appealable subdivision approval *reading the agreement*, whoever has to do it.

Lukasewicz asked Mellody, whoever has to do it? We can't tell the Planning Commission they have to approve it. *Barnick said we can't sign away their rights.* Mellody said, we're not doing that, it's conditional upon here. *Both speaking at once.*

Lukasewicz: If we sign this contract and the Planning Commission doesn't give him approval, then there will be a lawsuit for breach of contract. How can you put the cart before the horse, how can you do it? *Mellody said it would be voided, it doesn't say he has to get approval, it just says, inaudible, few speaking at once.*

Barnick wanted to know if anything was owed on the property or if anybody ordered or did a property search. Menichetti said that was neither here nor there, we had contacted Mr. Rinaldi about the land (not him contacting us). Marushock asked for the search on the 48 acres and said Joe Barone had been bothering Mr. Rinaldi for over one year already. Lukasewicz stated about \$20,000 was owed to the borough by Mr. Rinaldi. Menichetti said Barone called Rinaldi constantly. She reiterated that we initiated it, he didn't, and now we're coming down on him like a ton of bricks. A discussion ensued.

Barone asked who negotiated this and wanted to know what councilman. Menichetti told him he did, he was on the phone with him. Lukasewicz said he hadn't negotiated with Rinaldi since the inception of this. Barnick and Chrzan said they had not either. Barone said he talked to him to try to get him to sell the land and mentioned a meeting at Rinaldi's office, being unsure of who attended. Menichetti indicated she never had been down to his office for a meeting.

A discussion ensued with Barnick and Menichetti with regard to condemning and taking the land for market value if the land was wanted so bad. Barnick said for public use you can take it, it's in the Borough Code. Menichetti said the land belonged to somebody and we were not dictators to take land from people, it was not her style. She was not taking anybody's land, she would rather buy it. Barnick told Menichetti, but you'll buy it for \$180,000 - \$60,000 an acre.

Lukasewicz brought up the closing date of Nov. 15 and asked council if they were aware at closing he would be \$80,000 for doing the work. He read from paragraph 19 of the agreement and wanted to know what would have to be done first. Mellody stated the work would be done completed prior to closing. He then explained the deposit and said he would have to apply to zoning, planning, or whoever. Barnick asked who pays for all that, subdivisions and engineering and all the costs. Mellody said Rinaldi would and that the costs that are incurred to clear the land are all on him, he (Rinaldi) said it here at a meeting. Barnick wanted to know what the contract said, not what was said at a meeting.

Lukasewicz wanted to know and asked if Rinaldi thought from Oct. 15 to Nov 15 he would get approvals from the property authorities; planning, county, engineers, etc., everything, all that done in a month. Marushock said there would be special meetings, if necessary. Mellody stated it was not his problem, it was Rinaldi's problem to get it done. Lukasewicz rebutted by stating but we were entering into a contract with him. *Both were speaking at once.*

Mellody said he guessed he already had the plans and everything done. Rinaldi told him he had a water runoff plan and something else. A new plan, not submitted to anybody because he's waiting to see what was going to happen. Barnick said, wow, he didn't bring them here. Mellody inaudible, said because part wasn't the initial part of the agreement. If he doesn't come through on the contract, he's in violation of contract. Lukasewicz asked, why do something not knowing that everything is in line before you sign the contract? Mellody said he argued this himself, inaudible. Barnick asked why does he get money down when he has our money in planning fees?

Menichetti wanted to know why when Lukasewicz got the contract he didn't say let's sit down with our attorney. Barnick asked Menichetti, what do you think we're doing this evening.

Menichetti asked why (you) didn't invite Mr. Rinaldi and wanted to know where he was. She wanted to know why he wasn't invited here tonight. Barnick said he just showed up last time and asked if he was invited last time. Lukasewicz said this is a public meeting, advertised.

Marushock told Lukasewicz, the fact of the matter is you reneged on your duty to sign an official document when the vote was in place to enable you.... Barnick interrupted and said, no, there is no specific time frame. Lukasewicz mentioned something stinking in Throop and this time it was not the landfill and this agreement should be in the landfill buried with the trash. Menichetti said that's his opinion. Lukasewicz said it was his opinion and that was why he legally wanted to know what to do with the agreement.

A discussion ensued with regard to a letter from Barone that Lukasewicz had reviewed where he requested to change his vote. Upon the advice of Atty. Cimini he thought a meeting should be called. Menichetti said he (Barone) didn't vote and wanted to know how he could change his vote. You're asking to give him the opportunity to vote when he gave up his chance to vote. The vote was three (in favor), three (against) and the mayor broke the tie. Barnick said he (Barone) did not know what was going on, he didn't have a chance to read it all. He negotiated a different contract a month ago, totally different. Menichetti said he had the contract the same amount of time they did and asked why he didn't read it.

Barone asked again who negotiated the contract. Lukasewicz stated he did not know and Mellody said he did not negotiate it but did speak with Tony Rinaldi. Barone said, you shouldn't be able (to), done that. Mellody asked why not and Menichetti stated he was the President of Council. Barone said the man is a 'lame duck' and could put the borough in the hole forever. He thought when a contract was negotiated seven councilmen should be there not one, two, or three. Marushock stated it was not an action of Mr. Mellody himself, it was brought before the full panel floor and (was) voted at a public meeting and told Barone he had been pushing this. Barone said for a year and a half he had been pushing it and didn't get any help from anyone, especially Marushock. Words ensued between Barone and Marushock.

1. Motion by Barnick

Seconded by Chrzan

To rescind the Motion from Oct. 14, 2003 authorizing the purchase of the Rinaldi land

On the question:

Marushock: It's a big waste of taxpayers money. You are, the bottom line behind it, you people are pursuing the 48 acres which we, as we sit here right now, Mr. Szczepaniak said we should be in the fourth year of the program which if that is true we are one million dollars in arrears with that agreement and we stand to lose that property at any time. Also, by also acquiring that mine fire site, the borough now assumes liability for any mine fire or any problems on that site. Read the agreement. And also we addressed trying to raise revenue for that site by putting cell towers. We cannot do that. That's specified in that agreement. All along the borough's going to maintain, I think it's a 1.2 million dollar or 2.1 million dollar lien against that property. Yes, it's wishful thinking to make that become reality up there but we have not had the funding to do that for the past

four years and I don't see it happening in the near future.

Barone stated Marushock wanted to pay \$180,000 for 3 acres or whatever and then asked him if he would buy eight acres with all the utilities for \$190,000 for Chorba's land (next to Tri-County Building Supplies). Marushock said he voted what he did the other night. *Both speaking at once.*

Menichetti: Tom, can I ask you, are you saying then that our votes didn't count and you decided that you weren't going to sign the agreement.....*Lukasewicz: No.* Menichetti: Called a special meeting so you'd overturn the vote because it's already on the floor, the motion? Are you telling me that I'm sitting on this board and my vote doesn't count but what you want is going to count in this borough?
Lukasewicz: No. That's your interpretation of what's going on. I stated for the record, there was a vote taken....

Menichetti: Then why did you call..... *Lukasewicz: Could I finish? There was a vote taken. A contract was tried to be delivered to me at Turkey Hill.* Mellody: That is not true. I really take offense to that comment.

A discussion ensued of where the contract was left, dropped off. Menichetti read from the Borough Code, stating it doesn't say you have to be in an office, it doesn't it has to be in any specific place, it just says it shall be signed by the President of Council. Barnick asked if it said how many days and Lukasewicz asked if it said that instant. Menichetti replied, no, but it doesn't say you should hold up signing it so you could call a meeting to overturn the vote. Lukasewicz asked Menichetti if she had a problem with something if she would sign it. Menichetti said she would question it, not call a meeting to overturn the vote.

Lukasewicz mentioned a letter from Barone and stated everyone has a copy of the letter. After seeing the letter he called Attorney Cimini. Morrell stated there was no letter and Marushock then wanted to know if we did or did not have the letter. Morrell explained Joe submitted a letter stating he was changing his vote. Lukasewicz asked where the letter is and Morrell indicated she gave it back to Barone. Barone asked/stated he did not need a letter.

Menichetti said she is questioning Lukasewicz' intentions and wanted to know why an executive session was not called instead of this, open, public, voting, meeting. She thought it was a shame and reiterated she was looking at what his intentions were when the meeting was called. Chrzan stated it should be an open meeting. Marushock told Lukasewicz he was saying that there was a letter but Morrell was saying there was no letter. Morrell stated there was a letter and when asked by Menichetti, how could he change his vote when there is no vote, he didn't vote, he gave up his vote, and Morrell mentioned this to Barone. Marushock asked if we have a copy of the letter now and Morrell explained there was a letter and it was thrown out, at the request of Barone, not at her discretion as Marushock stated. Barone stated he gave the letter to change his vote. Lukasewicz told Daryl that's the only reason there was a meeting called, even though it appears for whatever reasons she wanted to make it appear. Menichetti suggested this was taken and discussed further.

Marushock stated Lukasewicz stalled with his signature when he was authorized.... Morrell stated Lukasewicz was concerned because of lack of funds, the money in the budget, there's \$100,000 in the loan for the acquisition of land but that other \$80,000 she could not find. She also said Lukasewicz also asked about the \$25,000 that was supposed to be given back to the borough (in the agreement).

Marushock said, but we find money when we need it though, for other projects.

Barnick stated there was a motion on the floor.

Morrell mentioned other concerns of Lukasewicz: The proposal does not include the \$25,000 back to the borough. No money in the budget, 2003, land acquisition \$100,000 in loan, nothing in the budget and Sept. 11th letter is different from the proposal. The Sept. 11th letter states \$25,000.

Lukasewicz asked what happened to the \$25,000 in the new agreement (donation back to the borough). Menichetti said it was her understanding that it would be given directly to the Civic Center if air conditioning was put in.

Chrzan: There's a motion on the floor.

Audience Comments (on Motion #1):

Dominick Rocco, 110 Sanderson St. - I agree with the motion. First of all, I feel this was illegal to begin with. There wasn't enough councilmen negotiating, there was only two or three of you. \$80,000 - it's over the \$10,000 and it should have been put out for bid. That's illegal right there. *Marushock, Menichetti inaudible. Barnick said you cannot do phone quotes and that it must be advertised for \$10,0000 or more.* Rocco continued stating it has to go out for bid. You're paying \$80,000 and anything over \$10,000 has got to be put out for bid. *Few speaking at once.* Cimini: The Borough Code says anything over \$10,000.

Menichetti: Well, the Borough Code says that you got to sign the contract, too. I don't go by the Borough Code, it doesn't mean anything in Throop. It's just words on a book.

Susan Shortz, Franko St. - Stated that her understanding of the reason for the meeting tonight was because Mr. Barone, decided he wanted to change his vote several days after the previous meeting. When he abstained at the meeting he was told by several council members you could not abstain without a reason and his response was he had his reasons, whatever. She stated he knew so well he shouldn't have abstained and stated he gave up his right. She said thought that Barone wasn't going to go against Mr. Rinaldi standing in the back (of the meeting) and he didn't know what to do and he abstained. But he made a choice. She said two council members came out of the meeting screaming at him so now he's afraid and now he's voting on your side. She stated when council previously met when Mr. Blazey made all the negotiations on that contract everyone met in executive session and that wasn't done with the public's input until it was all done and finished. She did not think the 48 acres was the right place to go and gave reasons why she believed this. Rinaldi was going to clear the land and this year we could have salt down there and put your trucks down there. Then next year put your building up. At the 48 acres the land had to be cleared yet, studies had to be done, you've got to get sewage, power, and everything else up there and it would not be cheap and you're going to have a salt shed up on top of the mountain and the salt wouldn't be moved out of the Little League for a couple more years. This, at least, is offering an opportunity to get the salt out of there where it doesn't belong. A discussion took place.

Lukasewicz asked if she thought it was proper to include in the agreement of sale a stipulation where you'll allow him to do the work without bringing it out for bid. Shortz stated if that has to be done then maybe that's something that needs to be discussed but that wasn't what the purpose of this meeting was today. The purpose of this meeting was today was to change his vote.

Barnick said apparently he wasn't heart set on voting against it because I was, and he didn't have a chance to read it all so that's why he abstained when he should have..... *Everyone speaking at once.* Shortz said she felt Rinaldi should have been invited to the meeting. Lukasewicz said he was surprised Rinaldi was not at the meeting, very much so. Shortz said this meeting was called at the last minute. Lukasewicz stated it was advertised properly. Menichetti said it was advertised in Sunday's paper and today's, this morning, and maybe he did not see him. Morrell said there was a fax from him dated today that he's going to file a lawsuit against the borough so he must have known there was a meeting.

Barnick told/asked Shortz, she was just assuming he (Barone) didn't want to go against him, are you? He sated he was human and makes mistakes and asked her, what are you going to do, kill him for it? Shortz said she was not going to kill him for it but what's occurring today, you're not willing to discuss this or work out the bugs or anything else. You just want to overturn it. Barnick said that was his choice, he can do that but it's for an issue of this land. It was his choice and he just made the choice.

Menichetti asked what was so attractive about that 48 acres and said there's got to be something up there that you guys want it so bad. She wanted someone to tell her what it is and give her an idea. Barnick said he wanted the land.

Lukasewicz asked Atty. Cimini if there was a problem with the meeting this evening, if it was proper and if he had done anything wrong, and did he not discuss the situation to find out what to do. He said he was only doing what he thought was right. Menichetti stated it was his motive and wanted to know what the meeting was for, Joe to change his vote or to discuss the contract. Lukasewicz said it was to discuss the whole situation. Barnick said he didn't even want to discuss it no more, he made the motion.

The tape was changed here and started:

Barnick asked the mayor, and you knew the \$25,000 was missing and all this other stuff was in there? The Mayor said his objective is, we got the borough building here, why not put the garage right here, it's that simple. Why go all the way to Dickson City practically or Olyphant. Menichetti stated that it was 2.5 million dollars to go up there and Marushock said, a possible mine fire site as we speak. *Few speaking at once, inaudible.*

Shortz asked Atty. Cimini if it wasn't a vote, what happens then, legally. If he didn't cast a vote can he vote now to change his vote? He didn't vote. Cimini: The minutes are full of votes being changed, motions to rescind, it's my understanding right now there's a motion to rescind the agreement on the floor. Barnick said he (Barone) had a good reason because the \$25,000 wasn't in the contract that he originally saw and that was a good reason. Shortz said, yeah, but that was not his reason. Barnick said he didn't understand it, it was a totally different contract. A discussion ensued.

Bette Goreschak, Meade St. - Stated that in negotiations Rinaldi's property was supposed to be sold for \$100,000. Then this \$80,000 was put into it for the clearing and she wanted to know what date that was interjected. The land was supposed to be bought for for \$100,000 and \$25,000 was being

given back and everything was supposed to be paid that was owed against the property. *A discussion took place with regard to the dates of agreements, again.* She thought it would be nice to compare the two (contracts/agreements) to see what the difference is.

Barnick discussed a change of vote by Menichetti, to withdraw a motion to purchase land, the vote being six in favor, one against, on Aug. 25, 2003. The vote against being Joe Barone.

Frank Galli, 609 Kossuth St. - Had a couple of questions and discussion took place regarding the appraisals on the property, one for \$30,000 and one for \$140,000. Galli asked who negotiated the contract, if any lawyers had been involved and our solicitor had given any interpretation of the contract. A discussion took place regarding contract (agreement) differences. Some things included the subdivision approval, the \$25,000 (donation), and what fees were owed and how and if that was going to be offset. Galli stated, asked, if we were going to pay them double what the land is worth according to the people that went and worked for us and gave us our assessment (referring to the appraisal). Galli said it was obvious we were not going to get a DPW shed built this winter and again our DPW workers would be working outside in the cold. Once again, in the middle of the winter at 2:00 a.m. or 3:00 a.m., during a snow storm somehow try to take that tarp off the salt pile that's still down the Little League, pull it off and risk injuries that's going to cost the borough, cause if one of the employees slip and fall, what's going to happen? This person would obviously sue us. If we don't sign this contract, we are going to be sued by him (Rinaldi) so basically he's putting a gun to our head and saying, if you don't do this I'm going to pull the trigger. He said Mr. Barone stated that he did not understand what was going on, he said that at the meeting. Galli said as council members you have to trust the people that work for you. The appraisal says \$30,000 and this man was giving a contract of over \$180,000 and somebody should say, whoa, wait a minute, what is going on here? It was barren land, laying there for years. He said if land be land then he would sell his two properties down the hollow, knock down the buildings, for \$140,000 you could build the DPW shed there. He said he thought \$180,000 was a lot of money for property. He discussed the 48 acres and stated this wasn't the meeting for that purpose but wondered by the borough couldn't get grants and help to build up there like Mellow Park.

Mayor Lukowski interjected and stated the Mid Valley High School was supposed to go up there and asked why the school was not up there today. A discussion ensued between Galli and the mayor. The mayor asked again why wasn't the school up there today and Galli told the Mayor he made the deciding vote and the mayor asked what he was making the speech for, so he could be contrary, that's all?

A discussion ensued with Barone and Menichetti, everyone then was speaking at once.

Lukasewicz: There's a motion on the floor.

Four in favor - Chrzan, Barnick, Barone, Lukasewicz

Three against - Mellody, Marushock, Menichetti

Motion carried

The meeting was adjourned.

Elaine Morrell, Administrator/Secretary

Minutes by Christina Sullivan, Assistant Secretary

