

Allegheny County Council

*County of Allegheny
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Committee Meeting Minutes

Wednesday, June 28, 2006

6:00 PM

Conference Room I

Committee on Parks

Joan Cleary, Chair; Jim Burn, Susan Caldwell, Matt Drozd, Mike Finnerty, and Jan Rea - Members

I. Call to Order

Summary: *The meeting was called to order at 6:00 PM*

Invited Guests:

Jim Flynn, County Manager or Designee

Andy Baechle, Director, Parks

Mike Wojcik, County Solicitor

Lindsay Totten, President, Botanic Garden of Western PA

Summary: *Invited Guests Present: Derek Uber for Mr. Flynn; Mr. Baechle; Mr. Wojcik; and Ms. Totten*

Council Staff Present: John Mascio and Jared Barker

II. Roll Call

Roll Call: Present: Michael Finnerty, and Joan Cleary
Absent: Jim Burn, Susan Caldwell, and Jan Rea
Phone: Matt Drozd

III. Approval of Minutes

2676-06 Motion to approve the Minutes of the April 27, 2006 Parks Committee Meeting.

Action: **A motion was made by Finnerty, seconded by Cleary, that this matter be Passed. The motion carried unanimously.**

IV. Agenda Items**Ordinance**

2645-06 An Ordinance of the Council of the County of Allegheny authorizing the County of Allegheny to acquire by condemnation, if necessary, from Pittsburgh and Western Mining Company, its successors or assigns, as their interest may appear, all the vein of coal known as the Pittsburgh vein, together with mining rights, underlying that certain one hundred twenty-seven (127) acres, more or less, of surface situate in North Fayette Township, Allegheny County and Commonwealth of Pennsylvania, as more particularly described in the deed dated May 27, 1924, from Pittsburgh Coal Company to Pittsburgh and Western Mining Company as recorded in the Recorder of Deeds of Allegheny County, Pennsylvania in Deed Book Volume 2236, page 97, and to take further action as may be necessary under applicable law, including the Eminent Domain Code of 1964, as amended.

Sponsors: Chief Executive

Summary: *The Chair provided the Committee with a background on the bill as follows:*

On April 18, 2006, Council passed Bill No. 2484-06, which authorized the amendment of a preexisting lease between the Horticultural Society of Western Pennsylvania and

the County for the site of the planned botanical garden in Settlers Cabin Park. The lease was amended for several purposes, among which was to permit the Horticultural Society to sell the rights to minerals under the leased property, permit the removal of the underlying coal, and use the proceeds from the mineral rights to (1) conduct environmental remediation projects on abandoned mines located on the leased property and (2) aid in the construction of the botanical garden itself. At the time that Bill No. 2484-06 was passed, the administration had indicated that the Horticultural Society had already been granted the mineral rights "for a large portion" of the 452 acres of leased property.

The Chair also provided a summary of the bill as follows:

The bill currently under consideration, No. 2645-06, addresses the mineral rights for approximately one third of the leased property. It has been determined that the Pittsburgh and Western Mining Company is the owner of record for the mineral rights under a 127 acre area of the leased parcel. The administration has represented that no record of this company can be found after the mid-1930s.

The current ordinance would authorize the condemnation the mineral rights of the Pittsburgh and Western Mining Company under the 127 acres leased by the Horticultural Society. Once these rights are acquired, the Society will be able to sell the rights as planned for the entire leased parcel.

Under the terms of Bill No. 2645-06, the Horticultural Society would be responsible for the entire costs of the condemnation proceeding including damages, if any, payable to the Pittsburgh and Western Mining Company as well as the entire cost of land, reclamation, abatement of the water pollution on the site, and the development and operation of the Botanic Garden. The County would bear no financial obligation for these costs.

Mr. Baechle also provided a summary of the bill. Mr. Wojcik said that he wanted to cover all bases in exercising the power of Eminent Domain. He said that the county wanted to condemn the property then file petition in the courts. He said the county took similar action with the Airport Authority.

Ms. Totten provided a brief summary of the project. She said that she feels confident that no one is going to step forward and claim these rights.

Action: **A motion was made by Finnerty, seconded by Drozd, that this matter be Affirmatively Recommended. The motion carried unanimously.**

V. Adjournment

Summary: *The meeting was adjourned at 5:30 PM*