

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING  
STOKES ASSEMBLY HALL, 1039 WILMINGTON PIKE  
Monday, June 18, 2012 7:30Pm

In attendance were Supervisors Chair Charles P. Barber, and Vice Chair Thomas F. Haws. Township Manager Robert Layman; Township Solicitor Patrick McKenna; and Planning Commission member Richard Pomerantz. There were 80 guests in attendance.

**I. Call to Order.**

As there was a quorum present, Chair Barber called the meeting to order at 7:30Pm. and led those present in the pledge of allegiance to the flag.

**II. Approval of Minutes (Board of Supervisors June 4, Regular Meeting).**

Mr. Haws made a motion, seconded by Mr. Barber, to approve the minutes of the Board of Supervisors June 4, 2012 regular meeting. Mr. Barber asked for public comment. There was no public comment. The Board of Supervisors unanimously approved the minutes as presented.

**III. Summary of Board of Supervisors Workshop 6/18/12**

Mr. Baber stated that the Board reviewed a request from the West Chester Area School District for a Public Access TV channel which will be on tonight's agenda. Also discussed was the insurance coverage for Oakbourne Mansion and parking problems on Kerwood Road and Overhill Road. An executive session was held concerning police matters.

**IV. Departmental Reports.**

**A. Westtown East Goshen Police Department.**

In the absence of a representative from the Police Department Mr. Layman reviewed the May Police report. He stated in May that there were 374 calls for service in Westtown for various offenses.

**B. Township Solicitor – Patrick McKenna.**

There were no items for the solicitor at this time.

**C. Planning Commission – Richard Pomerantz.**

Mr. Pomerantz stated that the Planning Commission reviewed the Township Engineer's letter of 5/12/12 pertaining to the proposed land development plan for PNC Bank/Rite Aid at the intersection of Routes 3 and 352. He stated that in general the Commission supports the plan. Mr. Pomerantz stated that John Snook, Brandywine Conservancy, was in attendance to discuss preparing an alternative energy ordinance. He also stated that Mr. Snook suggested five criteria that should be reviewed and also the section on solar energy. He stated that Mr. Snook gave the Commission copies of alternate energy ordinances from other municipalities to review. Mr. Pomerantz said the Commission, as requested by the Board of Supervisors, will look at the maintenance of rain gardens. He stated that Mrs. Adler will ask the Township engineer for information on this issue. Mr. Haws asked if the left turn for the PCN Bank/Rite Aid development will be based on PennDOT requirements. Mr. Pomerantz stated that it has been corrected on the plan but is still under review.

**V. Public Comment-Non Agenda Items.**

Richard Pomerantz, 1005 Robin Drive, asked for an update on what has been done on the Act 537 Plan since the last meeting. Mr. Haws stated that a residents group has been formed and a meeting held with the group and Evans Mills Environmental their engineer. He stated that approval of Evan Mills working in conjunction with URS is on tonight's agenda. Mr. Haws stated that there will be a meeting this week with

Chester County Health Department to gather additional information. He stated that Mr. Barber will attend the meeting along with URS, Evan Mills and two members of the residents committee. The Supervisors will give updates on the Act 537 plan at the Township meetings and on the website.

David Malmen, solicitor for Theresa Money, presented pictures of the plantings at the billboard and stated that the landscaping that was promised has not been done. He stated that the spacing of the trees, size of the trees and the number of trees to be planted on the upper tier are not what was expected. He also stated that Ms. Money's property was to have been sodded by April 1<sup>st</sup> and has not been done. Mr. McKenna stated that the landscaping agreement with Chester County Out Doors, dated January 30<sup>th</sup>, 2012 gave the developer six months until July 30, 2012 to complete the landscaping. He also stated that he has received a schedule from Mr. Bartkowski setting forth the planting schedule which should be done by July 25<sup>th</sup>. Mr. Malmen stated that there was an April 1<sup>st</sup> deadline for the sodding and asked that the escrow not be released until all the landscaping is done. Mr. McKenna stated that the Township has no intention releasing any escrow until the landscaping is completed. He stated that the developer cannot be fined until the July deadline and that it is very important for the developer to have the property in compliance, in the next six weeks, with the maintenance agreement. Mr. Haws asked for an update from Mr. Comitta. Mr. Comitta said that he will be doing an inspection when the landscaping is finished and at that time specify the items that are not in compliance. He stated that if he is not satisfied he can ask for other things to be done.

Mr. Pomerantz said the day after the last supervisors meeting there was a formal report from the Federal Reserve and the Secretary of the Treasury concerning the wealth of families being at the 1992 levels. He reviewed the report and wanted it on the record that this affects the residents.

**VI. Old Business:**

There was no old business.

**VII. New Business.**

**A. Chester County Department of Emergency Services Request for Funding.**

Mr. Barber stated that there is a shortfall in the County Department of Emergencies budget. The County as a way of not increasing taxes is requesting a fee of \$5.25 per resident from the municipalities to cover this short fall. Mr. Haws said that there is a large gap in the money that the State and the County have available for services and that instead of raising taxes they are considering this fee as an unfunded mandate. The Commissioner's will hold a "sunshine" meeting tomorrow at 10:00Am at 313 Market Street in West Chester to hear comments and then will meet on Thursday at 10:00am to vote on the issue. Mr. Barber stated as there are 10,827 residents in Westtown our portion would be \$56,300.40. He stated the feeling of our Board and other municipalities is that this is the responsibility of the County not the Township. Mr. Haws said as this is not an item in our current budget there is a possibility that services would have to be cut or taxes raised to cover this cost.

Jerrold Lakoff, 1505 Woodland Road, said he would like to put this into perspective. If the Board feels they have been blindsided by the \$56,000 the residents have also been blindsided with the rate that will be charged for public sewer. Mr. Haws responded that the Township has to comply with the Consent Order, an unfunded mandate from the State, and follow the guidelines set by DEP which the Township is challenging. Mr. Haws stated that the Board has heard the residents and are going with an on-lot management plan even though DEP has said it is highly unlikely that this would be accepted. Mr. Lakoff said he feels an adversary relationship has been established between the Board and the resident because of the verbiage that is being used. He said he does not like being referred to as you and the residents engineer as their engineer. Mr. Lakoff said we are one Township and this is everyone's problem. Mr. Haws apologized and said it is not the Board versus the residents. He stated that it is critical for him to do this right as he has not only been elected by the residents but he also resides in the area affected by the sewer. Mr. Haws said there should be no adversarial feelings. Mr. Lakoff then asked why the Board has executive privilege in speaking to DEP. Mr. Haws stated that there are items of a legal nature that are not discussed in public meetings. Mr. Lakoff said he does not know why information cannot be shared. Mr. Haws said there are legal matters that can't be discussed publicly.

Unidentified resident addressed Mr. McKenna about the executive session mentioned at the last meeting. Mr. McKenna stated that he was not at the last meeting. He stated that the Board is elected to act on behalf of the residents and under the "Right to Know" act there are 32 exceptions concerning public disclosure. Resident asked what privilege is being asserted and under what basis. Mr. McKenna responded that he does not know. Mr. Haws stated it would be the consent order and things of that nature. Resident stated that it is outrageous that the Board is concerned about a \$5.00 fee which is equal and will be borne by everyone but the impact of the sewer plan is not equal. Mr. Haws said it is equal for the 396 homes involved. Resident asked about the cost to upgrade the plant. Mr. Haws stated that the cost is paid for by the current users only. Resident asked that the cost be a tax so the residents can deduct this on their income tax. Mr. Barber stated that the residents who pay for sewer at the present time are only the ones connected to public sewer. He then reviewed why the Township had to acquire the Westtown-Chester Creek plant which was previously privately owned. A discussion was held concerning the possibility of selling the plant in the future but at the present time it is not feasible because of the debt load on the plant. Mr. Haws stated that the debt load could increase with more users connected to the plant. Resident said if more users will increase the debt load why are you proposing this. Mr. Haws stated that the Board in 2006 did not institute the Act 537 Plan and are now under a Consent Order to present a new plan or institute the 2006 plan. He stated that the Board has listened to the residents and are moving forward with the on-lot management plan and does not know what more the residents want from the Board. Resident stated go back to DEP and undo the bad thing you have done that's what we want and that the tie in cost should be borne equally by everyone in the Township.

Steve, 1514 Woodland Road, asked about the general obligation bond mentioned by Mr. Barber. Mr. Layman stated that sewer bonds were refinanced to a general obligation bond as there was an advantage in doing this. Steve? the residents are on the hook because the Township has the power to raise taxes. Mr. Layman stated that the bond is paid for out of the sewer user fees.

Resident asked about the Township's credit rating with Moody's. Mr. Layman stated that Moody's had increased the Township's rating higher than it should have been. It is now with our last refinancing at the proper level. Mr. Barber stated that when the Bonds were refinanced the Township saved over \$800,000. Mr. Layman said that the Township did not have to buy bond insurance because of our rating.

Resident asked why is the Township taking on this debt when the economy is so bad. Mr. Haws stated the additional impact on our debt is one of the arguments for the on-lot management plan.

Michael Kaliner, 1516, Woodland Road, said he was late to the meeting and asked for an update since the last meeting. Mr. Layman the Board has started talking with Evans Environmental on strategy for presenting the on-lot management plan to DEP as the better plan. He also stated that there will be a meeting with Chester County Health Department on Thursday to review their data. Mr. Kaliner stated that the Board has heard from knowledgeable residents and asked about testing of septic systems. Mr. Layman said that testing all lots could not be done by September 30<sup>th</sup> but that the plan to be presented will have a testing component. Mr. Kaliner said he is skeptical of having two plans as he feels DEP will take the one already in place. Mr. Layman stated that as long as the Township has information from residents that their septic has been tested it will be included in the plan submission. He stated so far he has received this information from only one resident. Mr. Kaliner suggested that a request for inspections to be submitted to the Township be put on the website.

Robert Bennett, 1520 Overhill Road, asked as there are dual paths the Township is taking if on-lot maintenance will be required for everyone. Mr. Haws stated that they will not deviate from this and it is what will be submitted.

Brian Walsh, 1529 Woodland Road, said he appreciates that the Board is listening. He stated that there is data from Chester County Health Department that residents have been doing on-lot management and pumping their systems. He stated what URS has submitted should be rescinded as the majority of the Township is doing what is needed for their systems.

## **B. Approval of Evans Mills Environmental Proposal.**

Mr. Barber stated that the Township has received the rate structure for Evans Mills and the Board is willing to have their engineer participate with URS in the Act 537 planning.

Mr. Haws made a motion, seconded by Mr. Barber to approve the rate structure for Evans Mills Environmental to work with URS, the Township and the citizens group to develop an on-lot management plan with a cap of \$4,000.00. This will commence upon approval this evening and anything above this cost must have prior Supervisor approval and the Township will have access to all work product information. Mr. Barber asked for public comment. Resident asked why do environmental studies when in his personal opinion residents are pumping on a regular basis. He suggested consulting with one of the septic cleaning contractors about the systems. The Board of Supervisors unanimously approved the motion as presented.

**C. Announcement Veterans ID and Discount Program.**

Mr. Barber stated that Chester County is announcing an ID program for veterans who if they show their identification card will be able to receive discounts at participating business.

**D. Authorization to Advertize and Ordinance on Parking Regulations.**

Mr. Barber stated that there are parking problems on Kerwood Road that are causing dangerous conditions. The police have spoken to the residents concerning this without success.

Mr. Haws made a motion, seconded by Mr. Barber, to authorize advertising of a Parking Ordinance. Mr. Barber asked for public comment. There was no public comment. The Board of Supervisors unanimously approved the motion.

**E. Public Access TV.**

Mr. Haws stated that WCASD has contacted the Township to request that we contact Verizon and ask them to activate the Township's educational channel. The School District would partner with West Chester University on this. Mrs. Pomerantz asked what the impact would be on the Township. Mr. Haws stated that under the Township's contract with Verizon we have three channels; Public TV, an educational channel, and government channel. Mrs. Pomerantz asked in approving this would the Board consider broadcasting the Township meetings. Mr. Haws stated meetings would be on the government channel and this is only approval for activation of the educational channel to reach Westtown residents. He stated that Board is not considering the government channel at this time.

Mr. Haws made a motion, seconded by Mr. Barber, to send a letter to Verizon concerning activation of the educational channel. Mr. Barber asked for public comment. There was no public comment. The Board of Supervisors unanimously approved the motion.

**VIII. Public Comment.**

Mr. Pomerantz asked that the Audio system please be looked at as those in the back of the room cannot hear. Mr. Layman will work on this.

**IX. Payment of Bills.**

On the motion of Mr. Haws, seconded by Mr. Barber, the Board of Supervisors unanimously approved the payment of the bills as presented.

**X. Adjournment.**

On the motion of Mr. Haws, by Mr. Barber the meeting was adjourned at 8:56Pm

Respectfully Submitted,  
Robert Layman,  
Township Manager