

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING
Township Municipal Building, Stokes Assembly Hall, 1039 Wilmington Pike, Westtown
August 6, 2012, 7:30PM

In attendance were Supervisors Chair Charles P. Barber, Vice Chair Thomas F. Haws, and Police Commissioner Carol R. De Wolf; Township Manager Robert Layman; Township Building Inspector John Wilson; Township Planning Commission Member David Walter and Parks and Recreation Chair Kristine Lisi. There were 107 guests in attendance.

I. Call to Order.

As there was a quorum present Chair Barber called the meeting to order at 7:45Pm.

II. Approval of Minutes (July 16, 2012 Regular Meeting).

Mr. Haws made a motion, seconded by Ms. De Wolf, to approve the minutes of July 16, 2012 regular meeting. There was no public comment. The Board of Supervisors unanimously approved the minutes as corrected (Section V:11 item D first paragraph last sentence correct spelling "indemnified" and "equitable"; Section V:111 last paragraph correct: Ms. De Wolf announced that on August 25th, 2012 West Goshen will pass a resolution to make Roslyn Drive a westbound one way and access to high street and 202 will not be through Roslyn any longer and a driver would have to use Rosedale or Jacqueline or go to Route 926).

III. Board of Supervisors Workshop 8-6-2012.

Mr. Barber reviewed the workshop. He stated that Board held two executive sessions with the Township Solicitor. The first concerned Westtown-East Goshen Police Issues and the second was review of a Memorandum of Understanding with Bozzuto Developers on sewer for the proposed apartments on Crebilly. Mr. Barber stated open discussion was held on the Act 537 Plan and the Open Space/Recreation task force.

IV. Departmental Reports.

A. Township Building Inspector – John Wilson.

Mr. Wilson stated that July was a busy month with 31 permits issued. He stated that it appears the Real Estate Market is improving as he had 13 resale inspections.

B. Township Roadmaster – Mark Gross.

As Mr. Gross was on vacation Mr. Layman presented the July Road Department Report. He stated that this year's road restoration project and line painting has been completed. The Department worked on stormwater problems in the Avonlea development and also replaced about 100' of stormwater pipes on East Pleasant Grove Road.

C. Township Planning Commission – David Walter.

Mr. Walter reviewed the July 18th Planning Commission meeting. He stated the Commission is recommending a change in the administration section of the Township Zoning Ordinance that a Certificate of Occupancy for a resale is only required when there is a structure on the property. Ms. De Wolf asked for an explanation of the change. Mr. Walter said it is a change in the wording so a Certificate of Occupancy would not be required for sale of a vacant lot. Mr. Walter stated that John Snook, Brandywine Conservancy, will be preparing an Alternate Energy Ordinance based on Kennett Township's ordinance. The Commission discussed Rain Gardens and asked that information on Rain Gardens be included in the next Township Newsletter. Mr. Walter stated that the Commission also reviewed an application to the Zoning Hearing Board for the expansion of a small building at 1630 West Chester Pike and is recommending approval of the application.

The Commission also reviewed the Zoning Hearing Board application for the Rite/Aid PNC Bank. The Commission would like more information as they feel a reduction in parking spaces will make for less impervious coverage. They also feel there are too many directional signs and have issues with the western access to West Chester Pike. Mr. Walter stated the Commission will continue review of the Rossiter Plan for a three lot subdivision at this week's meeting. The riparian buffer is still an issue with the project. Mr. Haws advised Mr. Walter that the Board will forward the draft Act 537 Plan to the Commission after tonight's meeting for their review and comments.

D. Parks & Recreation Commission – Kristine Lisi.

Ms. Lisi stated that the Commission has sent their revisions to the Parks Policy to the Board for review and would like to discuss this with them. As the weather has not been cooperating with the movie nights the movies have been re-scheduled to August 24th, and September 7th with a rain date of September 28th. Ms. Lisi stated the application for the Dog Show is posted on the website and will be held at Oakbourne Park on September 22nd. The Winter Festival is scheduled for December 2nd.

IV. Public Comment Non-Agenda Items.

Elek Fenyes, 755 Hinchley Run, asked why the Township does not collect yard waste once a month. Mr. Layman stated that since the Township's last contract for solid waste collection DEP has mandated that municipalities provide yard waste collection once a month. Mr. Layman stated that additional yard waste collections were added this year because of the mandate. The yard waste collection dates are in the Township Newsletter and posted on the Township website (www.westtownpa.org) He stated that our current contract expires December 31st of this year and that once a month collection for yard waste will be a requirement in the new solid waste bid.

John Messersmith, 1656 Musket Lane, asked about the Open Space task force. Mr. Haws stated that this is on the agenda and will be discussed at that time.

V. Old Business

There was no old business.

VI. New Business.

A. Accept Tract 2012-4 Westtown School Land Development – Science Building Addition.

Mr. Barber stated that Westtown School has submitted a land development plan for construction of an addition to the Science Building. He stated that Mrs. Adler has reviewed the plan and it is in order for acceptance this evening.

Ms. De Wolf made a motion, seconded by Mr. Haws, to accept Tract 2012-4 Westtown School Land Development plan for an addition to the Science Building and pass the plan to the Planning Commission for their review. Mr. Barber commented on the tardiness of Westtown School in providing a letter to the Township on the abandonment of the Mill Race. He asked Mr. Layman to look into this issue. Mr. Barber asked for public comment. There was no public comment. The Board of Supervisors unanimously approved the motion as presented.

B. Bill of Sale and Assignment of Lain Sewer Line Johnnys Way.

Mr. Barber stated the Board briefly discussed this at the workshop and in order for the Township Solicitor to move forward on the sewer line assignment the Lains need to execute the bill of sale.

Ms. De Wolf made a motion, seconded by Mr. Haws, to accept the Bill of Sale for execution by the Lains. Mr. Barber asked for public comment. Steve Rody asked the sale price. Mr. Layman responded the cost was approximately \$60,000.00. The Board of Supervisors unanimously approved the motion as presented.

C. Westtown-East Goshen Police – Thornbury Chester County Police Services Contract.

Mr. Barber stated that the Board has received a letter from Thornbury Chester County rejecting the Police Commissions contract offer for one year in the amount of \$786,000 and also rejected the indemnification clause. He stated that they made a counter offer of \$786,000 for a year with no indemnification. Mr. Barber stated the Board will not accept the contract without indemnification. He stated at the present time the Police have three officers receiving a regular pension and six officers with a disability pension. In comparison West Goshen has 14 officers on regular pension with one on a disability pension and Coatesville has 11 on regular pension and 2 on a disability pension. This is a major expensive to the Police Commission as those on disability pension receive medical benefits till age 65 and a 70% of their salary for life. Mr. Barber said he cannot approve a contract with Thornbury Chester County without the indemnification. He also stated Westtown's Contract with East Goshen is expiring December 31st, 2013 and that both Townships are working on various options as this type of pension is not sustainable for either Township.

Mr. Haws made a motion, seconded by Ms. De Wolf, to reject Thornbury Chester County's contract proposal for 2013 in the amount of \$786,000 without indemnification. Mr. Barber asked for public comment.

Richard Pomerantz, 1005 Robin Drive, asked what is the total obligation for the Police and is it funded or unfunded. Mr. Barber responded the present obligation is 60% unfunded. Ms. De Wolf advised Mr. Pomerantz that there is an Actuary Report for the Police Department which he is welcome to review. Mr. Barber stated that health care obligations are not included. Mr. Haws said that the cost of health care for a retired officer is approximately \$28,000 per year whether it is a normal retirement pension or a disability pension. Mr. Haws stated Thornbury's contract offer was rejected because we need indemnification. It would not be prudent not to require this with a potential of up to 2-3 million in liability. He also stated that they have been working with the police association to change some portions of their contract which would negate the need for indemnification but the discussions have not resulted in any changes. Mr. Haws stated the Board is trying to protect the future of police protection in the Township. He stated the following options; keep WEGO together and expend including additional municipalities, keep WEGO with some concessions for future sustainability, consider State Police protection, or Westtown have their own department. Ms. De Wolf stated that there are specific items in the police contract that need to be changed, which are being focusing on, in order to keep the costs sustainable in the future.

Brian Walsh, 1529 Woodland Road, said given what the Township is spending for police protection and the number of incidents each month he feels the Board needs to "stick to their guns" and let the contract with Thornbury expire. Mr. Walsh said if the Township cannot get outside coverage they should form a new police department that would not cost 50% of the Township budget.

Steve Rody applauded the Board for staying firm on the contract. He asked if the contract is not accepted can the \$786,000 be deleted from our budget. Ms. De Wolf stated that issue will be managed in negotiations as there are three contracts that impact this. Mr. Haws stated that with Thornbury out the difference would have to be made up. Mr. Barber stated that Westtown would have to pick up 44% and East Goshen 56%.

The Board of Supervisors unanimously approved the motion as presented.

D. Act 537 Plan Update.

Stan Corbett, URS, stated that the revised draft Act 537 Plan has been completed with the data from the Chester County Health Department ("CCHD") updated for the eastern end of the Township. He stated that in lieu of a sewer extension this plan proposes an on-lot sewer management program for the whole Township. There are two components to the plan; pumping and inspection. The Township will require repairs to be done if necessary with CCHD the authority in these situations. Mr. Haws stated that overall, subject to review, he finds the plan acceptable. He feels there could be stronger language and more information on the financial burden to the residents and Township. Mr. Haws said he is comfortable submitting the plan to the Township Planning Commission ("PC"), CCHD, and the Chester County Planning Commission ("CCPC"). Mr. Corbett stated that this is draft document and that no formal action is needed by the Board at this time. He stated that there is a 30 day public comment period which will be advertised. Mr. Corbett said the revised plan will be adopted by resolution of the Board at a meeting in late

September for submission to DEP by September 30th. Ms. De Wolf asked about the support letters. Mr. Corbett asked that they be sent to Mr. Layman and that the support letters will be part of the plan submission. Ms. De Wolf stated that letters in support of the plan will help to build the Township's case.

Helen Kelleher, 1002 Martone Drive, asked if residents have already submitted letters should they be resubmitted. Mr. Corbett asked that they be re-submitted to include in the draft plan.

Barbara Pomerantz, 1005 Robin Drive, said stronger language pertaining to the financial aspect was discussed in the Board's Workshop and feels that CCHD and CCPC need to have at least an overview of this aspect. Mr. Haws said the agencies need to move forward with their review of the new data in the plan and that the financial constraints are solely for DEP. Mrs. Pomerantz said given the history and the legalities we have to overcome she feels that the Township needs to explain to DEP why this submittal is different. Mr. Haws said personally he would not address that and the plan be submitted has criteria that is outlined and being met. He stated it is up to DEP to approve or reject the plan and we should not make false promises or claims. The data should speak for its self and if approved move forward with the on-lot-management. Ms. De Wolf said she had to agree with Mrs. Pomerantz that the draft plan does not have an executive overview and what was stated was very weak and does not give the Township's position.

Mr. Pomerantz thanked the Board and Mr. Corbett, on behalf of the residents for taking the process seriously, listening to the residents and getting the draft plan finished. He stated Ms. De Wolf has brought up an important point concerning the residents need to put in writing their financial concerns. He stated that the citizens group is sending out a survey on the financial issue which can be integrated into the plan submission. Mr. Pomerantz stated that there needs to be sufficient information in this new submission that will overcome DEP's skepticism. Mr. Corbett said he would never want to speculate on what DEP would say on anything. He stated he feels that the presentation presents a very logical and effective argument and that in discussions with DEP it appears their mindset is more reasonable than in the past. Mr. Corbett said he feels that Westtown has made a good argument which will be bolstered by the review and comment process. Mr. Pomerantz stated that he feels we need to make certain that the submission mitigate any doubt or misunderstanding that DEP might have. He stated that he had received information that one of the DEP officials had read the July article in the Daily Local which mentioned two plans and wondered if the Township was truly serious at this time. Mr. Haws stated that there was a later article which stated that the Board was 120% behind the on-lot management plan. Mr. Haws said as elected officials by the residents we are to plan for eventualities that may or may not be in our control and that the Board is only focusing on one plan at this time. Mr. Pomerantz stated that his point is that the Township has financial constraints and that a plan for grinder pumps would be a constraint. Mr. Pomerantz asked what captial commitments the Township has. Mr. Haws responded that besides the police and road program there are multiple projects that need to be focused on. Ms. De Wolf questioned how the Township's financial restraints could be included in the document. Mr. Corbett stated that financing of a potential sewer project is not a strong argument as the Township has borrowing power and the cost is covered by tapping and user fees. Mr. Corbett said that the financial challenges the residents have would be more important than the Township's finances. Mr. Pomerantz asked if the plan for grinder pumps had been approved what would have been the actual cost to the residents. Mr. Corbett said that would have depended on how the user fees were structured by the Board. Ms. De Wolf would like a financial piece in the submission and when she was speaking to DEP they indicated this was something they could look at. A resident stated he knows the Township has the ability to finance, but in the light of what is happening with the police, would this affect our rating. Mr. Layman stated that the Township is fine and our rating should not be affected. The resident stated that DEP needs to know the financial hardship on the property owners. Mr. Haws feels less focus should be on the financial component and that the data shows that the Township position is defensible

Mr. Walsh thanked the Board for completing the submission. He stated that the April plan shows that grinder pumps would be owned and maintained by the residents which is different than presented in previous plans. The issue of grinder pumps and the cost was discussed. Mr. Walsh said he feels that the current draft plan is good as it does state the reasons why sewer is not needed and how on-lot management can be sustained for the foreseeable future but that the backup documentation needs to be more accurate on the cost. He stated that the map does not show the correct area of public water as public water is available in Westover Farms. Mr. Walsh

stated that DEP should not see the draft plan until adjustments are made. Mr. Corbett stated that it will be up to the Board if the draft plan is sent to DEP. Ms. De Wolf felt changes should be made before a draft plan was sent to DEP. Mr. Haws stated that the plan just needs tightening up and meets the spirit and the drive of where the Township is going. He stated the sooner we can get the draft plan out the sooner we will have comments back for review. Ms. De Wolf asked about sending to DEP. Mr. Barber stated he would need to consider this. Mr. Haws said he would feel comfortable doing this.

Mrs. Pomerantz asked what is the upside and downside of sending the draft plan to DEP. Mr. Corbett said in his opinion there would not be much of a downside. The comments on the draft process will help to do some of the polishing that has been discussed. He stated it might be a benefit before DEP has to make official comments. Mrs. Pomerantz asked if Mr. Corbett or Jeff Miller could be present at the Planning Commission meeting in case there were questions where their expertise was needed. Mr. Haws said that would not be a problem and that Mr. Miller knows the draft plan is being reviewed by the Planning Commission this week. Mr. Corbett said he would try to attend. It was discussed moving the Planning Commission review to their second meeting on the 22nd. The Planning Commission did receive the draft plan electronically on Friday in time to review before their meeting. Mr. Haws stated that in order to keep moving forward written comments from the Planning Commission are needed.

Mrs. Kelleher stated that key sections need to be updated before submitted to DEP. She stated she agrees with Ms. De Wolf that the background and summary does not clearly state what is in the new plan. She stated that it is inconsistent with current data. Mr. Corbett stated that language can be changed. The first section should be very clear as to what is now being presented.

Michael Di Domenico, 1530 Woodland Road, thanked the Board stating we have come a long way in two months. He is hopeful that the plan that will be submitted in the best possible form and the proper areas addressed.

Resident agreed with Mrs. Kellerher to make sure the data is presented correctly. Resident does not feel the draft plan should be sent to DEP for their comments.

Mr. Haws made a motion, seconded by Ms. De Wolf, to pass the draft Act 537 On-lot Management Maintenance Plan to the Township Planning Commission, the Chester County Health Department, and the Chester County Planning Commission for their review and comments. There was no more public comment. The Board of Supervisors unanimously approved the motion as presented.

E. Execute Memorandum of Understanding Bozzuto Developers.

Mr. Barber stated that the agreement with Bozzuto Development pertains only to public sewer for the proposed apartments on the Crebilly Tract.

Mr. Haws made a motion, seconded by Mrs. De Wolf, to approve execution of the Memorandum of Understanding with Bozzuto Developers. Mr. Barber asked for public comment. There was no public comment. The Board of Supervisors unanimously approved the motion as presented.

F. Appoint Open Space Task Force.

Mr. Barber stated that the Township has received a Vision Partnership Grant from the County to update our open space and recreational plan. National Lands trust will be working with a Township task force to help develop the plan. Mr. Barber said there will be seven residents on the task force and also a representative from the WCASD, Township Planning Commission, West Chester United Soccer, East Side Little League and Parks & Recreation. He stated that questionnaires were sent to eighteen residents who had expressed interest in the task force. The Township received eleven responses to the resumes and will be appointing the following seven members to the task force: Wayne Zimmerman, Robinson Cox, Thomas Foster, Joseph Grady, Gary Bevilacqua, David Moldoff and Ryan Rhatican. Eric Rohrbach will represent the Planning Commission and Tammi Florio will represent the WCASD.

Mr. Haws made a motion, seconded by Ms. De Wolf, to appoint the seven members to the Open Space Task Force. Mr. Barber asked for public comment.

John Messersmith, 1656 Musket Lane, questioned why the Township needs a task force. Ms. De Wolf asked as Mr. Messersmith had expressed interest in the task force why he did not return the questionnaire. Mr. Messersmith responded that he just does not have the time. Ms. De Wolf said the task force will be working with the consultant to develop a plan for use of the Townships parks and open space for passive and active recreation. Mr. Messersmith asked if he could attend the meetings. Mr. Layman responded the meetings are public and he may attend. Mr. Messersmith stated that there are tracts that the Township has protected. Mr. Haws stated our consultant and the Task Force will look at all aspects of open space including league use and preservation. Mr. Messersmith asked about ball fields and commented that Mr. Haws ran for supervisor so that he could have ball fields in open space. Mr. Haws stated that the open space will be assessed in fair and forthright discussions the same as the Act 537 plan. Mr. Messersmith said no one is complaining about open space. Mr. Haws stated that residents feel we are underutilizing our open space and need a better recreation and open space plan. Mr. Messersmith said he was not aware of this. Ms. De Wolf stated that she shares Mr. Messersmith's desire to preserve the open space and to make sure the smaller parcels are kept. She mentioned that the open space that was established as part of a development will remain as open space. Ms. De Wolf said the Task Force will look at Township facilities and demographics to make sure the needs of the residents will be met.

The Board of Supervisors unanimously approved the motion as presented.

VII. Public Comment (all topics)

There was no public comment.

VIII. Payment of Bills.

Mr. Haws made a motion, seconded by Ms. De Wolf, to approve payment of the bills. The Board of Supervisors unanimously approved payment of the bills as presented.

IX. Adjournment.

On the motion of Ms. De Wolf, seconded by Mr. Haws meeting was adjourned at 9:37Pm

Respectfully Submitted,
Robert Layman,
Township Manager.