

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING
STOKES ASSEMBLY HALL, 1039 WILMINGTON PIKE
August 17, 2009 7:30Pm

In attendance were Supervisors Chair Carol De Wolf, Vice Chair Charles P. Barber and Police Commissioner Thomas A. Foster; Township Manager Robert Layman; Westtown-East Goshen Police Chief John M. Dumond; Township Solicitor Julie Pfaff; and Planning Commission member Richard Pomerantz. There were eight guests in attendance.

I. Call to Order.

As there was a quorum present Chair Carol De Wolf called the meeting to order at 7:33Pm and led those present in the pledge of allegiance to the flag.

II. Approval of Minutes (August 3, 2009 Regular Meeting).

Mr. Foster stated that he has been advised by Robert Adams, Township Solicitor, that the motion he made to approve sending a letter to DEP in favor of a grant for the restoration of Westtown School's lake was improper. He stated that part of his motion was that Ms. De Wolf recuse herself in the future when any votes are taken concerning Westtown School. Mr. Adams had advised Mr. Foster that this cannot be part of the motion and that Ms. De Wolf's second of the motion was a different motion. The Board was advised that the motion should be stricken from the minutes. Mr. Foster made a motion, seconded by Mr. Barber, to approve the minutes of the August 3, 2009 regular meeting as corrected. Ms. De Wolf asked for public Comment. There was no public comment. The Board of Supervisors approved the minutes as corrected (Section VII:C Paragraph 11 is stricken from the record).

III. Summary of Board of Supervisors Workshop 8/17/09.

Ms. De Wolf reviewed the items discussed at the workshop. Discussion of the fees for use of Oakbourne Mansion and Park. This item will be added to tonight's agenda. The Board interviewed three candidates for the Planning Commission. Ms. De Wolf stated that the Board met on August 12th with members of the Board of West Chester Area School District Board to discuss the acreage north of Bayard Rustin and possible development of this tract. They also met at that time with Robert Adams, Township Solicitor to clarify Ms. De Wolf recusing herself on Westtown School issues.

IV. Departmental Reports.

A. Westtown-East Goshen Police Chief John M. Dumond.

Chief Dumond reviewed the July Police Report. There were 452 calls for service in Westtown. He stated that they had to increase the K9 Patrol and Bicycle Patrol at the Goshen Fair due to two incidents on Monday night. Mr. Foster asked about the incident. Chief Dumond responded that there was a confrontation between Henderson and Coatesville students. There were no more problems the rest of the week. Chief Dumond reported that there have been thefts from vehicles in the Cardinal Drive and Overhill Road areas. He reminded those present to please not leave anything of value in their vehicles and to make sure their vehicles are locked at all times.

B. Township Solicitor Julie Pfaff.

1. Conditional Use Hearing St. Maximilian Kolbe Church.

Ms. Pfaff opened the hearing on the application of St. Maximilian Kolbe Church for temporary sports field lighting.

At the close of the hearing the Board of Supervisors made the following motion. Mr. Foster made a motion, seconded by Mr. Barber, to grant Conditional Use approval to St. Maximilian Kolbe Church for temporary sports field lighting. This approval is perpetual unless there is any change at all in the use. The Board of Supervisors unanimously granted the approval. (Transcripts available at the Township Office upon completion).

C. Planning Commission – Richard Pomerantz.

Mr. Pomerantz stated that the August 5th Planning Commission meeting was canceled as there were no items for the agenda. He also stated that he is waiting to hear if this week's meeting has been canceled for the same reason.

V. Public Comment-Non Agenda Items.

There was no public comment.

VI. Old Business:

There was no old business at this time.

VII. New Business:

A. Approval of Maintenance & Financial Agreements Tract 2007-1 WaWa.

Mr. Layman reviewed the following agreements for WaWa: Security agreement for site improvements with a bond in the amount of \$676,094; The access entry off of Manley Road to be reviewed after the first year by the Police Chief who will make a recommendation to the Board if any changes are necessary; \$50,000 will be held in escrow for possible improvements to the entry way; and the Traffic Signal Maintenance Agreement. WaWa is totally responsible for the cost of any changes that are to be made to the signal at Route 3 and Market Place. The Township and WaWa will each share one half of the cost for maintaining the signal. Mr. Foster asked if there are any other issues. Mr. Layman responded in the negative. Chief Dumond asked when construction would commence. Mr. Layman stated that a construction meeting had been held this morning.

Mr. Foster made a motion, seconded by Mr. Barber, to approve the execution of the Maintenance and Financial Agreements for tract 2007-1 WaWa. Ms. De Wolf asked for public comment. Lee Hartwig, 1001 Russell Lane, asked if there will be a left hand turn signal for vehicles traveling East on Route 3. Mr. Foster responded that this would be included in the Highway Occupancy permit issued by PennDOT. Mr. Layman said it is in the permit and the cost is the responsibility of WaWa. The Board of Supervisors unanimously approved execution of the agreements.

B. Approve Growing Greener Grant Letter Westtown School.

Ms. De Wolf stated that the issue of her recusing herself from voting, because of her children attending Westtown School, has been resolved by the Township Solicitor who advised that she does not need to recuse herself. Ms. De Wolf asked if there was a motion in support of the letter to DEP for the grant for restoration of Westtown Lake. Mr. Barber stated his position that the letter was not presented in a timely manner and without sufficient background information. He also stated as Westtown School is a 501(C)(3) he asked to see their 990 and was told that Westtown does not have to file this form as they are a religious school. He also asked and did receive their audited financial statement. Mr. Barber said it was stated at the last meeting that Westtown School could not afford to do the work but looking at their financial statement they are extremely well endowed. He also stated that he read the Phase I Feasibility Study which was to be returned to Holly Harper and was noted that it was not for public distribution. The letter that the Board has been asked to sign is based on this study. Mr. Barber said he felt that it was odd that the study was not for public distribution as the study shows that the School has stormwater problems with their ball fields and frog pond that need to be addressed. He also stated the he feels the School should not be using taxpayer's money when they have sufficient funds to do this. Mr. Barber stated he

feels that he cannot vote for this. Ms. De Wolf said she has not read the March 2008 Phase I Feasibility Study but the letter of support is not based on the study but is in support of the application to DEP for the Growing Greener Grant. Ms. De Wolf said if Westtown School did not receive stormwater from the residents upstream from the lake they would not have the issue with the lake filling in and the high levels of phosphate and nitrogen. She stated that this issue relates to the Township as the outfall from the lake goes into Chester Creek. The Township has to lower its TMDL limits and in order to do this are looking at a possible million dollar upgrade to our plant. Ms. De Wolf said supporting Westtown School in this endeavor makes sense to her as it will also help the Township. She also stated that any smart entity does not spend down its endowment. Mr. Barber addressing Ms. De Wolf stated that she did not read the report and questioned why trees are being taken down around the Lake. He stated that the School created the problem by establishing the dam; that it is their bailiwick and the tax payers should not be asked to contribute to this endeavor. Mr. Foster stated that his issue pertains to the matter of information. He stated that at the last meeting Mr. Embick referred to the Board as ignorant, in a somewhat derogatory manner, but in a sense it was absolutely correct as the Board was not aware of all the information involved with this issue. Mr. Foster said the Board received very little information at the last meeting but that he has taken it upon himself to find information. It appears that draining the lake is part of the plan and the Township needs to know more about this as it will drain into Chester Creek by our sewer plant. Mr. Foster stated that the Township has not been adequately informed of any aspects of this project and this is not an oversight just how business has been done. Mr. Foster said that he would like to support this and other things that would help the Township plant but needs to know the whole project before he gives his support.

Mr. Embick, 189 Pheasant Run Road, said he would try to respond to some of the Board's concerns. He stated that DEP, because of hazardous conditions with the dam, asked that the trees be removed from the breastworks of the dam. The remediation of the fore bay is a large part of the plan to remedy the conditions that affect the lake such as the sedimentation and pollutions from upstream that create heavy algae in the lake. Mr. Embick stated that the best management plans for wet lands that are proposed for the fore bay will make the Lake last longer and reduce pollution. He also addressed the issue from the last meeting that the residents in the area were not notified. He stated that there are wetlands on both sides of Walnut Hill Road and the plan is designed for the Westtown School property and should not affect other areas. Mr. Embick stated there are no financial regulations when applying for the Grower Greener Grant. DEP looks at the merit of the grant not Westtown School's financial condition. He also stated that Westtown School is not wealthy and there are restrictions on their endowment. Mr. Embick said Westtown School is like many other non- profit organizations who receive contributions from the Commonwealth. Mr. Embick said there is no conflict of interest with Ms. De Wolf. The Township does not gain any financial interest in the project. He asked the Board to reconsider their views as the only thing Westtown School is asking for is a letter of support for the project. Mr. Foster asked if part of the overall plan is to drain the lake. Mr. Embick said there are repairs needed to the spillway and central drain of the 1912 dam which cannot be done unless the lake is drained. Mr. Foster asked how the lake would be drained. Mr. Embick responded that a permit would be needed from DEP who would control how the lake was drained. Mr. Foster said his concern is the toxics that will end up in Chester Creek. Mr. Embick said the water to be discharged will be tested and the dredged material will be disposed of and not go into the creek. Mr. Foster asked about the quality of the water in the lake. Mr. Embick stated that there is no problem with the water in the lake. Mr. Barber asked about dead areas of oxygen in the lake and the depth of the lake. Mr. Embick responded that the lake is 7 feet in depth. Mr. Foster said there appears to be a lot going on with this project and a need for more information. He stated that only reason the Township is hearing from the School now and at the last Township meeting is because the Board made an issue of this. Mr. Foster said as a Supervisor of the Township he wants to know what is going on in the Township and feels that Westtown School has not been very upfront with the Township on quite a few things. He stated that Boy Scouts make a presentation to the Board when they want to do a project in our parks. This is a much bigger project and the only thing presented to the Board was a letter waved in front of them. He stated Westtown School needs to be more of partner with the Township. Mr. Embick said it is his understanding that over the year's communication was good but has fallen off in the past few years. He stated the School is very happy to talk to the Township and share plans and support. Mr. Foster said the first step is to come to us as the West Chester Area School

District is doing and which has been a pleasant change of attitude. Ms. De Wolf said, in respect to what Mr. Foster said, it would be good to sit down with the School, and she feels they would be willing to do this, to work closer together and discuss long range plans. Mr. Embick said as a parent of former students he has been working on the dam project. He has no problem talking to the Board about the lake but has no official standing other than an interested parent. Mr. Barber discussed with Mr. Embick if moving the catch basin up stream would be a permanent fix and also the control of algae in the lake

Ms. De Wolf asked if there was a motion to approve the letter of support for the Growing Greener Grant for Westtown School. A motion was not made at this time.

Mr. Pavelchek, 1050 S. New Street, said he had attended the workshop and Township meeting on August 3rd and there was very little information presented. He stated that if he was a Supervisor he would look at how beneficial this would be to the Township and would have to be convinced beyond a reasonable doubt. What this boils down to is finding out the benefits and the affects to the Township and Township personnel.

Mr. Pomerantz said he is a friend of Westtown School but has concerns as a resident that there seems to be a contentious relationship between both parties. He stated that he knows that both the School and the Township mean well. Mr. Pomerantz said the Board should take Mr. Pavelchek's statements into consideration. He said that it is unfortunate that Westtown School's point of view is that the onus is on the Township to somehow ameliorate this relationship. Mr. Pomerantz said going forward there is a lesson to be learned. How can this be made better in the future and what can the Supervisors do as leaders to make sure this does not happen again. Mr. Barber said he has stated his feelings some of which are based on questions in the Phase I Feasibility Study. He questioned if Senator Erickson had read the document before he gave support for the grant. Mr. Barber said he has expressed his feelings and does not have to endorse the grant application.

Lee Hartwig, 1001 Russell Lane, said it is nice that Mr. Embick is speaking on behalf of Westtown School but where is the authorized representative from Westtown School that can speak to this contentious issue. Ms. De Wolf said Holly Harper, who attended the August 3rd meeting was representing Westtown School. She stated that Ms. Harper is on the Board of Westtown School and had provided Mr. Layman with the executive summary of the grant application for the Board. Ms. De Wolf said there have been ongoing discussions with Westtown School concerning sewer capacity and there appears to be a disconnect between some members of Westtown's Board and Westtown School. She stated there are lessons to be learned for both parties. Mr. Foster said he is trying to focus on this issue and this issue only. He stated that he brought up the issue of lack of information, even though the Board did receive Ms. De Wolf's letter and the executive summary, which were remarkably similar, they still needed more information. He stated the Board is only learning about this project because of the confrontational situation which has developed over this letter. Mr. Foster stated his point that if the Township is told what is planned then if the project makes sense then the Board can give their support. He asked why the school can't be more candid and tell the Township what is going on. Ms. De Wolf said she looks at this in a different way and indicated her familiarity with this type of study. She stated she does not need the information as the project is based on best management practices and makes total sense to her. Ms. De Wolf said she feels there is something else that is keeping the Board from passing the motion other than lack of information as this is a good project. Mr. Barber asked if chemicals were added to the lake when swimming was allowed. Mr. Embick said he could not speak to that question. He stated that Mr. Connolly, Business Manger of Westtown School had been present at the last meeting and asked Mr. Embick to come this evening. He also stated that the project is good for Westtown. The fore bay work has to be done regardless as it is a component of the treatment systems to preserve the lake. He thanked the Board for listening and hoped for their support.

John Lain, 1540 Johnny's Way, said at the August 3rd meeting he spoke in favor of the Board supporting the actions of the school. He stated that Mr. Barber abstained from voting at that meeting and with the information presented since then it would be hard to find something unfavorable only more justification for the Township's support of the project.

Ms. De Wolf made a motion to approve the letter of support. There was no second to her motion. The motion did not pass.

C. Adopt Resolution 2009-13 Rental Fees Oakbourne Park.

Mr. Foster stated that due to the economic times it appears the rental fees needed to be more competitive. The Oakbourne Mansion Commission revised and simplified the fees for use of the Mansion. The fees for use of the grounds and athletic fields will be determined on a case by case basis by the Board. There will also be a 20% discount for non-profits with a 501(3)(C)

Mr. Foster made a motion, seconded by Mr. Barber, to adopt Resolution 2009-13 Rental Fees Oakbourne Park. Ms. De Wolf asked for public comment.

Mrs. Lain, 1540 Johnny's Way, asked how the Township would measure the effectiveness of lowering the rent on the return of their investment in Oakbourne. Ms. De Wolf said Oakbourne is an historic building which needs renovation. The Commission is doing the best they can to market Oakbourne. She stated she is not sure if the effectiveness can be measured. Mr. Foster said the Commission is looking for ways to increase rentals and have been successful in some of their efforts but they are volunteers not professionals. Mrs. Lain asked what has been invested over the last several years. Mr. Foster responded he did not know. Mrs. Lain asked how much more would be invested. Mr. Foster responded we have a tight budget and are looking at alternatives for use of the Mansion. He stated that the Township has some restrictions on what it can do because of receiving County funds in the past. Mr. Pavelchek asked if rental of the pavilion was free to residents. He was advised it was free to residents but non-residents are charged a cost of \$75.00.

The Board of Supervisors unanimously approved adoption of Resolution 2009-13.

VIII. Public Comment.

Mr. Pomerantz stated that there is a dangerous situation with cars entering the PNC Bank off of Route 352 as children are skate boarding in the parking lot and asked Chief Dumond to have the police address this issue. Mr. Pomerantz announced that he has been appointed coach of the women's basketball team at Valley Forge Military College. If you are a basketball player and want to attend a junior college there is financial aid and scholarship funding available. He stated it would be nice to see a family in Westtown benefit from this program.

IX. Payment of Bills.

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

X. Adjournment.

On the motion of Mr. Foster, seconded by Mr. Barber, the meeting was adjourned at 9: 07Pm.

Respectfully Submitted,
Robert Layman, Township Manager