

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING
Township Municipal Building, Stokes Assembly Hall, 1039 Wilmington Pike, Westtown
August 3, 2009, 7:30PM

In attendance were Supervisors Chair Carol R. De Wolf, Vice Chair Charles P. Barber; and Police Commissioner Thomas A. Foster; Township Manager Robert Layman; Township Building Inspector John Wilson; Township Planning Commission Member Jim Lees; and Oakbourne Mansion Commission Chair Eva Foster. There were thirteen guests in attendance.

I. Call to Order.

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

II. Approval of Minutes (July 20, 2009 Regular Meeting).

Mr. Foster made a motion, seconded by Mr. Barber, to approve the minutes of the July 20, 2009 regular meeting. Ms. De Wolf 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 8/3/09.

Ms. De Wolf stated that the following items were discussed at the workshop: DEP correspondence concerning Presby Homes; Moving forward with the On-Lot-Management Program; Interviews for the vacancy on the Planning Commission which will be held at the Board's workshop on the August 17th; Resident's requests for stop signs at several locations; and the hiring of Attorney Penny First who specializes in collection of delinquent accounts.

1V. Departmental Reports.

A. Township Building Inspector – John Wilson.

Mr. Wilson reviewed the July Building Report. He stated the work has been completed on the Mansion gutters and downspouts and as there were enough funds in the grant painting and minor repairs were done to all the metal sections of the upper Mansion roof, soffit and fascia.

B. Township Roadmaster- Mark Gross.

As Mr. Gross was on vacation, Mr. Layman presented the July Road Report. The Department continued repairs of stormwater inlets, asphalt repairs and line painting throughout the Township. Mr. Layman stated that West Chester Area School District and the Township have come to an agreement on remediating the problems with the restoration of Shiloh Road. Ms. De Wolf stated that the Board had a meeting on July 29th with the Township Roadmaster who presented a power point presentation of 18 parcels of open space owned by the Township. The parcels are in various developments throughout the Township and are becoming a nuisance to maintain as some have stormwater problems and others are old wood lots. Ms. De Wolf said the Township is considering selling some of these parcels.

C. Township Planning Commission – Jim Lees.

Mr. Lees reported on the July 22 Planning Commission Meeting. The Commission reviewed a letter from the Township Engineer pertaining to Tract 2008-5 J. Loew, 1081 Wilmington Pike. The Commission is considering recommending sidewalks on East Pleasant Grove Road. The applicant would be agreeable to including sidewalks in the plan. Mr. Lees stated that the Commission will send a letter to the Board recommending that they grant Conditional Use Approval to St. Maximilian Kolbe Church for temporary field lighting as the lighting is for practice

only. The Planning Commission will not be meeting this week as there are no items for the agenda. Mr. Lees said the Commission regrets Mr. Purcell's resignation and was hoping there were applicants for the position. Ms. De Wolf advised Mr. Lees that the Board has received three applications and will be holding interviews at their workshop on August 17th.

D. Parks Advisory Group.

Ms. De Wolf stated that the Board had received a nice email from Kristine Lisi about the success of their "Christmas In July" event. In the absence of Mr. Tehrani Mr. Layman reported for Parks Advisory. He stated that 85 children and parents attended Christmas in July. Santa was also in attendance. There was fake snow, games for the children and carriage rides which helped make this a successful event for Parks Advisory. Mr. Layman announced that the second movie night will be held this Friday the 7th. The movie will be Wall-E. He also stated that Parks Advisory is considering a Township Barbeque to be held around Labor Day. The second annual "Best in Westtown Dog Show" will be held Saturday, September 26th.

E. Oakbourne Mansion Commission – Eva Foster.

Mrs. Foster stated that the Mansion is rented for two weddings in October which will be tented events. The two car clubs have asked to have their show at Oakbourne again next year. There is a tentative date set of June 5th. Mrs. Foster said the Mansion Commission is working on marketing the Mansion for Christmas events.

V. Public Comment (Non Agenda Items).

There was no public comment.

VI. Old Business

A. Approve the Public Sewer Agreement for Lain's 1540 Johnny's Way.

Mr. Foster made a motion, seconded by Mr. Barber, to approve the execution of the public sewer agreement with the Lain's, 1540 Johnny's Way, as prepared by the Township Solicitor. Ms. De Wolf asked for public comment. There was no public comment. The Board of Supervisors unanimously approved execution of the agreement.

VII. New Business.

A. Approve Thornbury Township Chester County Contract for Police Service.

Ms. De Wolf stated that the Board would be ratifying a three year contract with Thornbury Chester County for the services of the Westtown-East Goshen Police Department. Ms. De Wolf stated the agreement is for \$700,000 for 2010 with a 6% increase for 2011, and 2012. The Police Commission has agreed to the contract.

Mr. Foster made a motion, seconded by Mr. Barber, to ratify the three year contract with Thornbury Chester County for the services of the Westtown-East Goshen Police Department. Ms. De Wolf asked for public comment. There was no public comment. The Board of Supervisors unanimously approved the contract.

B. Accept St. Maximilian Kolbe Church Conditional Use Application Temporary Field Lighting.

Ms. De Wolf asked for a motion to accept the Conditional Use Application for St. Maximilian Kolbe Church and schedule the hearing.

Mr. Foster made a motion, seconded by Mr. Barber, to accept the Conditional Use Application for Temporary Field Lighting for St. Maximilian Kolbe Church and schedule the hearing for the Board's August 17th regular meeting. Ms. De Wolf asked for public comment. There was no public comment. The Board of Supervisors unanimously accepted the Conditional Use Application.

C. Approve Letter Re Growing Greener Grant Westtown School.

Ms. De Wolf stated that Westtown School has applied for a Grant from DEP for improvements to Westtown Lake. She stated that it appears members of the Board of Supervisors have a difference of opinion about sending a letter to DEP in support of the grant. Ms. De Wolf said she supports the grant application. She also stated that it appears one or possibly two Board members feel that a letter of opposition should be done. She asked if there was anyone in attendance that could provide data to the Board on the grant application.

Holly Harper, Westtown School Board of Directors, stated that she is clerk of buildings and is on the grounds committee. Ms. Harper stated that Westtown School's Mission is to inspire and prepare our graduates to be stewards and leaders of a better world. As part of that mission they are committed to protect and enhance the environment through teaching and institutional practices. In 2008 the school did a study of their 15 acre lake. The major tasks to make the lake a healthy and functioning part of the eco system are to repair the dam, repair the malfunctioning fore bay, and dredge the lake. Ms. Harper stated that they are applying for a grant under the DEP growing greener water protection program. She stated that the Board of Supervisors had previously received excerpts from the grant. The purpose of the grant is to address non point source pollution through local watershed based planning, restoration and protection efforts. (handouts were presented to the Board) Ms. Harper referred the Board to the red area on the map which is upstream from the lake. The stream bank in this area will be stabilized and invasive plants removed. Westtown School is partnering with the Chester Ridley Crum Creek Watershed Association ("CRCC") in a public outreach program. They will be working with the community and the local elementary school on how to reduce the nutrient footprint and the amount of stormwater leaving the Westtown school property. The ultimate goal is to reduce the amount of nitrogen and phosphate leaving the property and the sediment entering Westtown Lake and Chester Creek. Ms. Harper said the school has letters of support from CCRC, the Chester County Water Resources Authority, the Chester County Conservation District, State Senator Erickson, and Thornbury Delaware County. Ms. Harper said Westtown School is hoping that the Township would write a letter of support but if the Board is not in support of the project she asked that they please do not write a letter of opposition.

Jack Emblick, 189 Pheasant Run Road, a registered voter, whose polling place is Westtown School and whose children attended Westtown, stated that he feels the project is worthy of the Board's support for the reasons the Board has just heard. He urged the Board not to send the draft letter of opposition as the letter reflects that the Township Supervisors are uninformed. He said, in principal, I am opposed to sending letters to State agencies that appear uninformed or ill informed. He reviewed the statements in the Board's draft opposition letter he felt that were incorrect. He then stated that the water which pollutes Westtown Lake comes from upstream down Hickman Run. It comes in part because the Township has not done its job to control stormwater and now it is up to Westtown School to do this. Mr. Barber stated that he had received an email which indicated that Westtown School does have the funds to undertake the lake design. He also stated that is it not correct that the school has just completed over a million dollar fund raiser. Mr. Barber said he was asked to sign a letter of support with no background information and now finds out that Ms. De Wolf is on Westtown School's Board. Ms. De Wolf responded that she is not on the Board of Westtown School. Mr. Barber said he may have misread the email. Ms. Harper advised Mr. Barber that Ms. De Wolf was not on the School's Board. Mr. Barber asked if Robert Adams was on the Board. The response was that he is not. Ms. De Wolf, after reviewing the email in question, stated that Mr. Barber is referring to an email she sent to Robert Adams, her solicitor. She explained that when she returned from vacation she received an email from Mr. Foster stating that he was writing a letter in opposition to the DEP grant and that is when she emailed Mr. Adams. Ms. De Wolf said that Westtown School does not have the funds to undertake this project. She also stated that this letter is embarrassing to her as she is a member of Westtown's Board of Supervisors. Ms. De Wolf stated that for the record there are residents on Ponds Edge Road and Carol Brown Way that support the action of the school. Mr. Barber thanked Ms. De Wolf for her clarification. Mr. Foster stated that Ms. De Wolf presented the letter to the Board to sign without background. He said the issues he raised were not addressed and appreciated having them addressed this evening.

Rev. Owen Owens, 1403 Carroll Brown Way, said that he and his wife chaired the Owen Pond Committee in Penn Wood, and expressed their support for Westtown School's project.

Walter Pavelchek, 1050 S. New Street, asked what aspect of the project is the Board objecting to. Ms. De Wolf said she does not have any objections. She supports the project because the Township has some TMDL issues and phosphate and nitrogen issues with the stream as the Township is facing an upgrade to the Westtown-Chester Creek Plant. Mr. Pavelchek asked if there were technical objections. Mr. Foster stated that there was no technical support or back ground in Ms. De Wolf's letter. Ms. De Wolf said the Board was provided with data on the project from the Chester County Water Resources group. She stated she had discussed this with Mr. Barber and Mr. Foster but was not successful in convincing them of the worthiness of the project. Mr. Pavelchek said he feels this project fits in well with what is needed and will be a benefit to the Township's sewage plant and to Chester Creek.

Eva Foster, 734 Westbourne Road, stated she is a past Board member of the Pennsylvania Landowners Association whose mission is to protect private property rights. She stated that Westtown School by doing this is infringing on private property rights. She asked where is the logic in the State spending money to produce a swamp when they don't have a budget and are not paying employees. Mrs. Foster asked if adjacent property owners have been notified of the project. She stated that if riparian buffers become an issue adjacent property owners, if they are next to wetlands could lose the right to some of their property. In 1980 the County paid people to drain wetlands. They have stopped doing this which is causing people to lose use of their property. There are also animal and mosquito issues from wetlands that can impact private property. Mrs. Foster said that as the school has raised a million dollars, as indicated by the sign at Route 926 and Westtown Road they should pay for the project instead of the tax payers. Mrs. Foster said she applauds the supervisors for taking a fiscally responsible tack to this issue.

Mr. Barber asked what the tuition is at Westtown School. Ms. Harper stated she does not feel this is relevant to the issue. Mr. Barber said he is wondering how this compares to the public school system as he knows charter schools are reimbursed. Ms. De Wolf stated that Westtown School is well funded and this has nothing to do with the proposed project. Ms. De Wolf said on the six years she has been on the Board of Supervisors, the Township has never opposed work that is being done for good purposes as Westtown is doing and which also benefits the Township. The Township is under new regulations for phosphate in Chester Creek and MS4 regulations. Residents living near streams are going to be asked to do things differently to see that what they do impact areas downstream. Ms. De Wolf stated that the nefariousness of the letter and creation of wetlands as an issue is wrong. Ms. De Wolf said she is totally embarrassed to be part of a Board that her name would be on a letter against the project when there are good people in our Township doing good things with DEP or other public programs that are available. Mr. Foster said he had two reasons for not signing Ms. De Wolf's letter one being the arrogant approach to sign the letter, without any information, because it was a good thing, and secondly favoritism that was asked to be shown because of Ms. De Wolf's connection to Westtown School. This has rubbed a number of people the wrong way. Ms. De Wolf said that it was Ms. Harper that asked Mr. Layman to present the letter to the Board. She stated that she has never asked for favoritism and has always rescued herself on voting if she felt there was a conflict. She said she has asked Mr. Adams many times if she should recuse herself. She stated that she takes opposition to the comment that the Board did not have information. They did have information. Ms. Harper said the Board was provided with an executive summary of the project and she had made herself available for questions. Ms. De Wolf said the grant has been submitted and recommended that the Board send a letter of support. If they do not desire to do this she will send a letter herself and asked that a letter of opposition not be sent.

John Lain said he has lived near Westtown School for twenty years and has nothing but the best relationship. When Oak Lane was closed it did affect the residents on Johnny's Way but feels there was no opposition to the school pursuing its interest in the interest of the student body and community at large. We are all Westtown Township and we borrow from the school and its history which is part of what makes Westtown Township special. He stated Penn Wood did have access to the lake in previous years and that the trails are open to joggers. Mr. Lain said the grant would be reviewed at the State level for engineering and there is funding set aside for green projects. He does not see the Township has to the power to oppose the project based on the fact of the money to be spent. Mr. Lain said just as we supported the Oak Lane closure we will support what the School wants to do.

Mr. Pavelchek said he can understand a reluctance to endorse something that he did not understand, but in order to oppose he believes that one must have some reasonable expectation that this would be a negative effect on the Township or its residents. He hopes the Board will approach this from that viewpoint to understand what is negative and why it would be negative on the Township. Mr. Pavelchek said the Township, County and State have an overriding charge to make sure that what happens on one property does not affect another. He stated that DEP is finding out that the absence of wetlands is having a negative effect on surrounding properties. If there are really negative effects of this proposed project than that would be the basis for an objection and in the face of that could see someone recusing themselves from any action.

Ms. De Wolf asked if there was any consensus on the Board for the letter of support. Mr. Foster said he was willing not only to withdraw the letter of opposition but to vote for a letter of support. Essentially, on one condition that Ms. De Wolf recuse herself whenever there is a conflict of interest which he thinks clearly there was in this case and has been on a number of occasions. But he stated he thought that part of this issue was not what was represented but how it was presented. Ms. De Wolf said how she would respond to this is that she would allow my solicitor to answer in regard to this particular issue and feels he knows what he will say and has told her. She stated she has no problem recusing herself at anytime and there is no conflict of interest with Westtown School just because her children go to school there. She also stated she is not involved on the School's Board, or involved in any decisions, nor was she involved with the grant. She said she had nothing to do with the grant planning before it was brought before this Board. Ms. De Wolf said she is firm in her feelings but is very willing to accept what Mr. Adams says in terms of that particular issue. Ms. De Wolf asked for a motion. Mr. Barber said that he will not support it. He stated he does not feel that a private school should receive public funds for this type of endeavor. He also stated that Mr. Foster and Ms. De Wolf could do what they want. Ms. De Wolf asked if there was a motion to send a letter of commitment.

Mr. Foster said he would move that the second of letter of support that Ms. De Wolf has proposed be passed with the stipulation that he had suggested before. Ms. De Wolf said that leaves her in a position whether to second this but then said that she would second the motion with the thought that she would defer to Mr. Adams for his final take on this. Ms. De Wolf asked for public comment. There was no public comment. The Board of Supervisors approved the motion. Mr. Barber abstaining. (As stated by Mr. Foster at the August 17, 2009 Board of Supervisors meeting, per the Township Solicitor, this motion is incorrect and is stricken from the record).

VIII. Public Comment (all topics)

There was no public comment.

IX. Payment of Bills.

Mr. Foster made a motion, seconded by Mr. Barber to approve the bills as presented.

X. Adjournment.

On the motion of Mr. Foster, seconded by Mr. Barber, the Board of Supervisors the meeting was unanimously adjourned at 8:29Pm.

Respectfully Submitted,
Robert Layman,
Township Manager

