

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING  
TOWNSHIP ASSEMBLY HALL, 1039 WILMINGTON PIKE  
November 3, 2003 7:30PM

**DRAFT**

In attendance were Supervisors Chairman Victor J. Orlando, Vice-Chairman Robert A. Genzano and Police Commissioner L. Charles Scipione; Township Manger Robert Layman; Township Solicitor Robert F. Adams; Township Roadmaster Mark S. Gross; and Township Traffic Consultant Frank Zabawski. There were nine guests in attendance.

**1. Call to Order.**

Chairman Victor J. Orlando led the Board of Supervisors, staff and guests in the Pledge of Allegiance and called the meeting to order.

**11. Approval of Minutes (October 20, 2003 Regular Meeting).**

On the motion of Mr. Genzano, seconded by Mr. Scipione the Board of Supervisors approved the regular meeting minutes of October 20, 2003 as corrected (Section 111 A.1 paragraph 2 change "connector road" to "parallel road"; D. several additions and revisions to Mr. Pavelchek's Parks Advisory Report).

**111. Departmental Reports.**

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

Chief Dumond reviewed the October Police report. He reported that the District Attorney's office had asked for help from our Canine Patrol in finding illegal drugs being shipped through a Federal Express office in West Whiteland. Officer Ricoh was instrumental in finding \$50,000 worth of crack cocaine which was traced to an address in Coatesville. Chief Dumond thanked Mr. Scipione and Mr. Orlando for recommending him to receive Westtown-Goshen Rotary's Vocational Service Award for 2003.

Mr. Orlando asked how the Department handles the high amount of 911 hang up calls. Chief Dumond stated that as two officers must respond it becomes a drain on the Departments resources. The officers have to be sent even though only 1% of these calls can result in an actual incident. Mr. Orlando asked if it would be possible to fine residents for 911 hang up calls the same as for false alarms as they are usually caused by carelessness on part of the resident. Chief Dumond said he would discuss this with the Police Commission as there is a statue in the Crime Code pertaining to charging for unlawful 911 calls.

Mr. Orlando asked the difference between a robbery and a theft. Chief Dumond explained a robbery is taking by use of force or threat of force; burglary is entering a residence or dwelling with the intent to remove property from the dwelling; theft is a simple taking such as removing something from a mailbox. Mr. Genzano questioned that the motor vehicle violations are a fraction of what they were last year. Chief Dumond responded that officers were pulled off traffic control to work undercover on the apartment burglaries.

**B. Township Building Inspector – Gerald R. DiNunzio.**

As Mr. DiNunzio had another commitment Mr. Orlando reviewed the October Building report.

**C. Township Roadmaster – Mark S. Gross.**

Mr. Gross reported that the Road Department during the month of October concentrated on stormwater repairs and rebuilding of inlets. The line painting has been completed and the poplar tree has been removed from the front of the Mansion. Mr. Gross stated the

meter pits in the West Goshen sewer district are being upgraded to provide more accurate reporting of the flows to the West Goshen plant.

Mr. Orlando asked that the yellow line on Johnny's Way be repainted in the area of Penn Wood School where it is off center. He also asked if the line painting contractor had painted East Goshen's area of Walnut Hill Road. Mr. Gross responded that they had but this was in reciprocation for the paving of a section of Walnut Hill Road in Westtown by East Goshen. Mr. Orlando also stated that he had received some complaints about the recent tree trimming. Mr. Gross said as the trees are so over grown it is always a shock to the residents when they are first cut. He stated the Department has started a tree trimming schedule based on the Township snow plowing routes. Using this schedule ten to twelve miles of roads can be trimmed each year with all areas being trimmed every five to six years.

**D. Planning Commission – Domenico N. Bibbo.**

In the absence of Mr. Bibbo Mr. Layman reported on the October 22<sup>nd</sup> Planning Commission Meeting. He stated that the Commission reviewed two applications for variances to the Zoning Hearing Board. The first was a request from the Jaguar/Land Rover Dealership for a second free standing sign for Land Rover. The Planning Commission is not in favor of granting a variance for a second free standing sign as both dealerships have flat signs on the building. Mr. Scipione stated he does not want to handicap a successful business but prefers to have the signs on the building not on the highway.

Mr. Layman stated Donnelly Corporation is applying for a variance in size for its proposed office building at 1645 West Chester Pike. The Planning Commission's main concern is that there will be an adequately maintained buffer between the office building and the residential properties in Willistown Township. Mr. Adams reminded the Board that the applicants Conditional Use Hearing is still pending from September 2<sup>nd</sup>, 2003 waiting for action from the Zoning Hearing Board on the variance request. He advised the Board of Supervisors that they could impose a condition concerning the buffer when the Conditional Use decision is rendered.

Mr. Layman was directed to arrange interviews for the Board with the candidates for the vacancy on the Planning Commission.

**IV. Public Comment (Non-Agenda Items)**

There was no public comment at this time.

**V. Old Business.**

**A. Kolbe Lane Rehabilitation Project – Execution of Contract.**

Mr. Layman advised the Board of Supervisors that both Mr. Kravitz and Chester County Sealcoat and Paving have been advised of the bid award. Mr. Scipione asked for an explanation of Mr. Capuzzi's escrow summary for the Enclave. Mr. Genzano said Mr. Capuzzi's summary is showing what is currently in the escrow account and comparing it to the current value for completion of the outstanding items if they were done today.

Mr. Scipione said he made a site visit to Kolbe Lane and asked how the road, which is a disgrace, would be rehabilitated. Mr. Gross said the bid includes milling out the existing base, sub-base stabilization, and a new binder course and wearing course.

Mr. Genzano suggested before the Board makes any decision on the escrow account they should discuss this with Mr. Capuzzi. Mr. Layman stated that he had asked Mr. Capuzzi to look at the Enclave as a whole and make recommendations on the items that are not completed as he feels Mr. Kravitz needs to increase the escrow account. Mr. Orlando said he would like Mr. Adams to take the necessary action to have Mr. Kravitz increase his escrow account. Mr. Adams stated that under the Municipalities Planning

Code the Township may increase the performance security. He also stated that a maintenance bond would be necessary before the Township accepts dedication of Kolbe Lane or the sanitary sewer lines. Mr. Orlando said he would like it on record that the Township is requiring additional escrow funds. Mr. Adams will write to Mr. Kravitz concerning the escrow account.

Mr. Genzano made a motion, seconded by Mr. Scipione, to execute the Kolbe Lane Rehabilitation project bid with Chester County Sealcoat and Paving. Mr. Orlando asked for public comment.

Mrs. Mary Lyons, 1136 Kolbe Lane, asked if sending a letter to Kravitz concerning the escrow will affect finishing the paving by the end of November. Mr. Orlando said the letter to Kravitz concerning the escrow does not involve the paving contract. Mr. Gross advised Mrs. Lyons that Chester County Sealcoat will be starting the work on S. Concord Road next week and once that is completed they will proceed to Kolbe Lane. Mr. Gross stated that depending on the weather there should be time to have Kolbe Lane completed before winter. Mrs. Lyons asked about the space that was left between the street and her driveway when the sidewalks were done. Mr. Gross stated he would look at her driveway. He also stated that the sanitary sewer lines on Kolbe Lane will be televised next week to make sure the lines are acceptable for dedication.

The Board of Supervisors unanimously approved execution of the bid for the Kolbe Lane Rehabilitation project.

**B. Tract 2002-2 Joyce Realty Office Building Execution of Final Plans.**

Mr. Layman stated that the Board of Supervisors had approved Joyce Realty's final plans on July 17, 2003. He stated all plan conditions have been met and the security bonds received.

Mr. Scipione made a motion, seconded by Mr. Genzano, to approve execution of the final plans for the Joyce Realty Office Building. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved execution of the plans.

**C. Tract 2003-10 Orvis Tract Tag Builders Conditional Use.**

Mr. Orlando asked Mr. Adams to conduct this part of the meeting. Present for the applicant were Wendy McLean, Solicitor; Tom Galbally, Developer; and Greg Richardson Traffic Consultant. Present for the Township were Frank Zabawski, Traffic Consultant, and Christopher Della Penna, acting Township Engineer.

Ms. McLean said it is her understanding that the record is being held open until the Board of Supervisors meeting on November 17, 2003. She stated that letters have been submitted from Frank Zabawski, Chris Della Penna and their traffic consultant. She mentioned the absence of a court recorder at the meeting and asked Mr. Adams if there was any additional information needed to close the record.

Mr. Genzano suggested that the Board review Chris Della Penna's letter of October 30<sup>th</sup> concerning calculation of the open space. He questioned if it is a violation of the Zoning Ordinance if the open space is included in a residential lot and deed restricted. Mr. Adams said this would be open to interpretation. Ms. McLean stated that areas A & B on the plan are designed to meet the common open space requirements. Mr. Adams said the Board needs to look at the function of open space and stated in his opinion if open space is part of a private lot, even though it is deed restricted or under a covenant, the property owner will consider the land his and landscape how he chooses.

Mr. Galbally said the areas of open space on the plan are designated A, B, and C. He stated that having area A included between lot 2 and lot 3 was Mr. Snook's suggestion to protect bordering residential properties. This common open space area would be required to be maintained by the owners of lot 2 and lot 3. Mr. Galbally said area C will

help to maintain the view around the existing Orvis house on lot 34 and area B establishes a straight line boundary for the open space. Ms. McLean stated the Flex Ordinance refers to common open space but in other sections of the Zoning Ordinance it refers to just open space. As revisions are being proposed to the Zoning Ordinance she asked if the open space language could be fine tuned by the time the applicant reaches final plan approval. She also stated in order to satisfy the Board and Planning Commission could some open space remain in private ownership and still count toward the required 40%. This would be an incentive to a developer to preserve a "manor" house or a special feature the Township would like to preserve. Mr. Orlando stated that if area A is to be common open space it would have to be conditioned on the Home Owners Association maintaining the open space on a regular basis.

Mr. Della Penna reviewed the open space calculations as there appeared to be some confusion as to the exact calculation. He stated that the figures in his letter of October 30<sup>th</sup> are based on review of a sketch plan done by Bob Heuser. The calculations that have been presented this evening have been done by the applicants engineer and are more accurate. After some discussion the open space issue was resolved by including area B in the common open space area, leaving area C with the old house and dividing area A between lots 2 and 3. These lots will be deed restricted for no further subdivision.

The next item of discussion was the parallel road. Mr. Orlando asked for input on how the parallel road could be built from W. Pleasant Grove Road to the jug handle at Stetson. Mr. Scipione asked that in any correspondence or conversation this is referred to as the parallel road. Mr. Scipione asked Mr. Zabawski if the parallel road makes a difference in his traffic calculations. Mr. Zabawski agrees the parallel road is needed but questions whether it is needed for the Orvis thirty-six lot subdivision. He stated the development could function in the interim without the parallel road but provision should be made for the eventual construction of the road. Mr. Scipione said he wants to go on record that whether the parallel road is built now or in the future it has to be provided for on the subdivision/land development plan and must connect with the jug handle. Mr. Orlando asked if the parallel road should be built when the residential development is done or when the eastern part of the tract that borders on Route 202 is completed. Mr. Adams said it has not been determined that the front of the tract will be developed. Mr. Genzano said he is in favor of the plan but feels it would be irresponsible of the Board to allow the plan to be finalized without addressing the engineering of the parallel road. He feels this information is necessary before the tract is developed. Ms. McLean stated the grade difference between the jug handle and the Orvis tract is an issue. She stated the applicant would be agreeable to work on the engineering of the right-of-way for the parallel road. She also stated that the runoff from the parallel road will be taken into consideration in the stormwater calculations. Mr. Richardson stated he has discussed this issue with Mr. Zabawski and that the parallel road does have merit. He stated that his client wants to cooperate as much as possible in this matter but it comes down to the point of obligation or contribution for connecting the parallel road to the jug handle. Mr. Scipione stated the Township is interested in the engineering at this time. Mr. Adams said requiring the applicant to engineer his site and the jug handle raises issues beyond the scope of the project. Mr. Genzano said he would not be comfortable approving this project without knowing that the parallel road will work. Mr. Adams stated he is not sure who would be responsible for designing the connection to the jug handle. He also stated the Township would be responsible for acquiring land from the school district if necessary for the project. Ms. McLean stated that the applicant has met all the criteria for Conditional Use. They have shown a concept for the right-of-way for the parallel road but realize it is possible the right-of-way location might change during the subdivision and land development process. She stated the engineering cannot be started until they receive Conditional Use approval. She also stated that they are committed to dedication of a 60' right-of-way for the parallel road. Mr. Adams asked Mr. Zabawski what he feels the protocol for this project would be. Mr. Zabawski said it is unknown how PennDOT will address the jug handles when route 202 is expanded. He stated that the plan could be approved with the right-of-way in place and assurance that the parallel road would work. He also stated that he feels the parallel road could be a vital link in PennDOT's plan for the Route 202 improvements. It would be favorable that the parallel road would be in place. Mr. Scipione said it might be prudent at this time to bring the issue of the parallel

road to the attention of PennDOT. Mr. Adams stated that the design of the parallel road should be a condition of preliminary plan approval. Mr. Adams said he will draft an opinion to this affect for the Board's review. He also stated that if there is no more testimony the record could be closed this evening. Mr. Genzano asked that the record not be closed until the meeting on November 17<sup>th</sup>. Mr. Adams clarified for the record that there will be no private open space, area B will be inclusive in the common open space and deed restrictions will be placed on lot 2 and lot 3.

**V11. New Business.**

**A. Execution of Contract with West Chester Recreation – Cooperative Proposal 2004.**

Mr. Layman presented West Chester Receptions proposal to the Board of Supervisors in the amount of \$29,300. Mr. Orlando said the increase from last year is not significant and feels as the programs are well attended the proposal should be approved.

Mr. Genzano made a motion, seconded by Mr. Scipione, to execute the Cooperative Proposal for 2004 with West Chester Recreation. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved execution of the proposal.

**V111. Public Comment (All Topics).**

Mr. William Steele, 1055 E. Niels Lane, appreciated the decision not to have common open space between lot 1 and lot 2 of the Orvis tract as he felt this area, which borders his property, would not be maintained.

**1X. Payment of Bills.**

On the motion of Mr. Genzano, seconded by Mr. Scipione, the Board of Supervisors approved payment of the bills.

**X. Adjournment:**

On the motion of Mr. Scipione, seconded by Mr. Genzano, the Board of Supervisors unanimously adjourned the meeting.

Respectfully Submitted,  
Robert Layman  
Township Manager