

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING  
STOKES ASSEMBLY HALL 1039 WILMINGTON PIKE  
December 15, 2003, 7:30Pm

In attendance were Supervisors Chairman Victor J. Orlando, Robert A. Genzano and L. Charles Scipione; Township Manager Robert Layman; Township Solicitor Robert F. Adams; Township Engineer Angelo M. Capuzzi; Westtown-East Goshen Police Chief John M. Dumond; Planning Commission Chairman Don L. Verdiani; and Parks Advisory Group member Walter Pavelchek. There were twenty-five guests in attendance.

**I. Call to Order.**

As there was a quorum present Chairman Orlando called the meeting to order and led those present in the pledge of allegiance.

**II. Approval of Minutes (December 1, 2003 Regular Meeting).**

On the motion of Mr. Genzano, seconded by Mr. Scipione, the Board of Supervisors unanimously approved the December 1, 2003 regular meeting minutes.

**III. Departmental Reports.**

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

Chief Dumond reviewed the November Police Department Report with the Board of Supervisors. He advised those in attendance not to leave any valuables or presents in their cars overnight during the holiday season. Chief Dumond commended the detective unit for the arrest of a suspect in recent robberies of vehicles at the WaWa. He also commented that Snyder's of Hanover has donated a box van to the Police Department's Special Operations Unit. The officers worked on their own time to outfit the van which will be used by the detectives and the traffic unit.

**B. Township Solicitor – Robert F. Adams.**

**1. Conditional Use – Orvis Tract.**

Mr. Adams stated that he feels the Decision which he drafted is acceptable for the Board's execution this evening. He stated the Board has held the technical record open which has to be closed on December 17<sup>th</sup>, 2003 and a decision rendered by January 1<sup>st</sup>. 2004.

Mr. Adams reviewed the Decision for those present. He stated that the proposed private open space has been eliminated and that the remaining open space is not an issue as it complies with Township ordinance. Mr. Adams said the main issue during Conditional Use had been the parallel road. He stated that the applicant will be required to hold open a 60' right-of-way for dedication to the Township once the issues of the road location, connection to Stetson Middle School and W. Pleasant Grove Road are resolved. The Decision requires that the cul-de-sac is eliminated when the parallel road is completed. The funding of the road will also be a decision that would involve the applicant. Mr. Adams said the Decision states that final land development will not be granted until the final alignment, grading, and engineering of the parallel road have been finalized. He also stated that the Township expects that the applicant will make the determination of the financial cost of the parallel road and will hold open a permanent offer of dedication to the Township.

Mr. Scipione made a motion to approve the Conditional Use Decision for the Orvis Tract 2003-10 TAG Builders as presented. Mr. Genzano asked that on

page 2 item 5 of the Decision that the farm house lot be corrected to lot 35. With the change to item 5 Mr. Genzano seconded the motion. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved the Conditional Use.

**2. Authorization to Advertise the Snow/Ice Emergency Ordinance.**

Mr. Adams stated that this ordinance will identify the snow emergency routes which the current ordinance does not and also designate who could officially declare a snow/ice emergency. This issue has become apparent because of the request for overnight parking in Wild Goose Farms. Mr. Adams said the ordinance will identify all Township roads as emergency routes. Mr. Layman stated that the ordinance is not enforceable unless the roads included in the emergency routes are posted.

The Board discussed who should have the authority to declare a snow/ice emergency. Mr. Verdiani, Emergency Management Coordinator, stated that the Township's Emergency Operations Plan, which is already in place, designates a member of the Board of Supervisors or himself to have this authority. Mr. Genzano asked Mr. Adams to amend the ordinance to reflect that either a member of the Board of Supervisors or another Township Official is authorized to declare a snow/ice emergency.

Mr. Scipione made a motion, seconded by Mr. Genzano, to authorize advertising of the Snow/Ice Emergency Ordinance as amended. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved authorization to advertise the ordinance.

**C. Township Engineer- Angelo M. Capuzzi.**

**1. Jefferson Center – Malvern Bank – Escrow Release #3 in the Amount of \$21,404.70.**

Mr. Capuzzi advised the Board of Supervisors that this escrow release is for earth work, installation of part of the sanitary sewer system, and stake out work. Mr. Orlando asked if they are in compliance with the Conservation District. Mr. Capuzzi responded that the Conservation District has inspected the site and they are now in compliance.

Mr. Genzano made a motion, seconded by Mr. Scipione to approve escrow release #3 for Jefferson Center – Malvern Bank in the amount of \$21,404.70. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved the escrow release.

**2. Tract 2001-9 Commerce Bank Escrow Approval – Final Plan Execution.**

Mr. Capuzzi stated that the plans have been revised to modify the traffic circulation pattern. He stated that the applicant has addressed all his and Mr. Zabawski's comments. Mr. Capuzzi said he has reviewed the development agreement and the escrow agreement in the amount of \$450,780. Included in the escrow is \$1,000 for a review by Mr. Zabawski of the traffic circulation within the year to see if any changes are necessary. Mr. Adams said he was in receipt of the letter of credit today but had previously reviewed the financial agreement and land development agreements. Mr. Adams stated that the Board could approve the final plan and escrow agreement contingent on his review.

Mr. Scipione made a motion, seconded by Mr. Genzano to approve the revised final plan for Commerce Bank dated 11/26/03 conditioned on Mr. Adams review of the \$450,780 financial escrow agreement. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors

approved execution of the Commerce Bank final plan and escrow agreement as conditioned.

**D. Planning Commission Report – Don L. Verdiani.**

Mr. Verdiani stated that the Commission reviewed sketch plans for a two lot subdivision for John O'Brien on Shiloh Road, and a four lot subdivision of the Sineath property on Westbourne Road at their December 3<sup>rd</sup> meeting. He stated that under the new Zoning Ordinance a 10% dedication of open space is required for subdivisions of two acres which creates an issue for both tracts by creating small pieces of open space of no value to the Township. He also stated that the Flex Development can be used for subdivisions under ten acres but the new Ordinance did not make changes in the 40% open space requirement which makes it difficult for use on small tracts. Mr. Verdiani said the Commission is reviewing this issue with Brandywine Conservancy.

Mr. Scipione said he had received a call from Mr. O'Brien who feels that the Planning Commission is trying to restrict further development of his property which would be a financial burden to him in the future. Mr. Verdiani responded that they had suggested to Mr. O'Brien that one way to solve the open space issue would be to deed restrict the one lot or for Mr. O'Brien to dedicate a storm drainage easement to the Township for the Shiloh Road improvements. Mr. Verdiani said these were only suggestions for Mr. O'Brien to consider.

**E. Parks Advisory Group – Walter Pavelchek.**

Mr. Pavelchek reported on the December 9, Parks Advisory Group meeting. He stated that the Parks Advisory Group will be meeting with a representative of the Chester, Ridley Creek Watershed on December 20<sup>th</sup> to discuss the condition of Goose Creek which flows through areas of Westtown. The Parks Group will also be meeting with residents in the area of Larchbourne Park to discuss park issues. Mr. Pavelchek stated that the tennis courts have been inspected by the Road/parks department and it has been determined that the stormwater runoff be corrected before any resurfacing is done on the courts. He also stated that Duane Green, Forester, has volunteered, at no charge to the Township, to help with the replanting in the Arbor area.

Mr. Pavelchek said a list of park projects for volunteer groups is being prepared which will be different from Eagle Scout projects. The primary concern of the Parks Group for 2004 will be the completion of Oakbourne Park Phase I and Phase II and renovations to the Smith Mansion. The Parks Group is also considering extending the proposed Township trail from the new high school to the Market Place Shopping Center. Mr. Pavelchek feels the trail could be 80% funded through a federal grant which would need to be applied for in 2004. The Parks group also discussed creating natural coverage in Township open space to reduce the Township mowing costs.

**F. Financial Report – Robert Layman.**

Mr. Layman reviewed the November financial report with the Board. Mr. Orlando said it appears that the Township has \$180,000 in expenditures over its revenue collected this year. He stated this would be discussed during the budget discussion.

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

There was no public comment at this time.

**V. Old Business:**

**A. Adopt Ordinance 2003-5 Amendment to Parking Ordinance – Permit Parking Wild Goose Farms.**

Mr. Layman stated that this item was tabled at the last Board meeting for review of on street parking during a snow/ice emergency. The ordinance has been revised to include

posting of the streets as snow emergency routes. The ordinance will not be implemented until the parking permit is revised and streets posted.

Mr. Genzano made a motion, seconded by Mr. Scipione to adopt Ordinance 2003-5 Amendment to Parking Ordinance – Permit Parking Wild Goose Farms conditioned on approval of the parking permit. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved Ordinance 2003-5.

**B. Award Pleasant Grove Pump Station Control Replacement Bid.**

This item was tabled for further review by Mr. Gross to clarify if the components specified by the lowest bidder are adequate and equal to what was specified in the bid document. He stated that the Township has till February 1<sup>st</sup> to award the bid.

**C. Execution Tract 2003- Liberty Square.**

Mr. Layman advised the Board of Supervisors that everything is in order for the Board's execution of the escrow agreement for Liberty Square as prepared by CVE in the amount of \$761,786.63. Mr. Orlando stated that the Board has already approved the final plan for Liberty Square and asked if the applicant is in compliance with URS's comments. Mr. Layman responded that they are in compliance.

Mr. Scipione made a motion, seconded by Mr. Genzano, to approve execution of the final plans for Liberty Square and approval of the escrow agreement in CVE's memo of 11/06/03 in the amount of \$761,786.63. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved execution of the Liberty Square final plans and approval of the escrow agreement.

**D. Approval of the 2004 Township Budget and Resolution 2003-18 Millage Rate 2004.**

Mr. Layman reviewed the 2004 budget. He stated in order to balance the budget which is over by \$150,000; cuts had to be made in some services. The snow/ice removal was decreased from \$110,000 to \$80,000. As the cost of the trash/recycling collection increased last year along with a \$5,000 increase in tipping fees paid to the landfill. The quarterly refuse collection fee will be raised from \$48.00 to \$53.00. Mr. Layman also recommended a .2 of a mill increase in the Township real estate tax to help balance the budget.

Mr. Genzano said raising the milage from .5 mills to .7 mills would increase the average resident's tax bill from \$95.00 a year to approximately \$140.00 per year but still leave a short fall of \$10,000. Mr. Orlando said the Township does have a fund that can be used. Mr. Genzano said he is looking beyond 2004 because of the debt the Township has incurred with the renovations to the Westtown-Chester Creek plant. Mr. Orlando said the Township would be receiving a tap in fee from West Chester Area School District in the amount of \$400,000 to \$500,000 which will help with the sewer fund this year. The Township is moving forward with the Act 537 plan and hopes to add more users to the plant in 2004. He stated an increase in sewer rates is also an option.

Mr. Genzano stated that the line item of the operating fund that is the most concern to him is the police department which is 42% of the budget. This is an 11% increase over last year. He said we have an excellent police department who perform a tremendous service but he feels ways need to be found not to compromise but to establish some fiscal checks and balances on the department. Mr. Orlando said in comparison with other Townships Westtown's police budget is not abnormally high but in line with other departments in the County. Mr. Genzano said looking at our police budget he feels there are certain areas that could be curtailed. He mentioned some of the areas that need to be addressed: eye and dental care; health club fees; and clothing and shoe allowances. Mr. Layman stated that the police contract is up for negotiation in 2004 and he would like input from the Board on the areas of concern. Mr. Genzano said he is not willing to continue to approve the extras and feels the Township is cutting their own services for the

police and the only apparent option is a reduction in the police force. Mr. Orlando advised Mr. Genzano that the medical benefits are part of the police contract and will be looked at during negotiations. He stated that the employees may have to make contributions to their health care or take fewer benefits.

Chief Dumond stated that the Westtown-East Goshen Police Department is one of the lowest cost per residents in Chester County and the lowest officers per citizen ratio in the County. He said the areas that Mr. Genzano mentioned are in the collective bargaining agreement and that the medical benefits also cover the officer's families. Chief Dumond said he does not think the answer to reducing the budget is a cut back on personnel. Mr. Genzano said he does not wish to reduce the force but the Township has a financial responsibility to its residents. Mr. Scipione said the Police Commission approved the police budget for 2004. The only way to make changes at this time will be in the new contract. Mr. Genzano said he feels the budget for the police department can be controlled and questioned if the number of officers is in the current contract.

Mr. Orlando stated that East Goshen and Westtown had an agreement several years ago on how the force would be expanded and Westtown is living up to its commitment. Mr. Scipione said with the changes in the economy since the last contract the Commission will be looking very carefully at the areas that need to be addressed.

Mr. Layman advised the Board if the real estate millage is to be increased this must be done by resolution. Mr. Orlando made a motion to increase the millage by .25 mills to .75 mills. Mr. Scipione seconded the motion. Mr. Orlando asked for public comment at this time. Mr. Genzano commented that he feels .2mils is reasonable and puts the burden on the Township not the residents. Mr. Scipione withdrew his second for the .25 to .75 increase and seconded the increase of .2 mills from .5 mills to .7mills.

Mr. Jeff House, 1012 Russell Lane, asked what current financial reserves does the Township have. Mr. Orlando said there is an anticipated fund balance of \$150,000 to \$200,000. Mr. House asked about any long term reserves and outstanding liability the Township has. Mr. Orlando responded that there is 1 million dollars in the capital reserve fund and there is long term debt in the sewer fund for the plant upgrade. He also advised Mr. House that the funding for the new police station would be a bond issue. He stated interest earnings on the funds go to the debt service and there are interest costs in the police budget.

Mr. William Wood, 1063 Dunvegan Road, said he greatly appreciated the immediate help of the police department when his wife had a fall on the driveway last year but he expressed concerns about the expensive bond issue for the new police station. He stated he is on a fixed income and asked that the Board of Supervisors please consider the tax payers when they make their decision.

Mr. Walter Pavelchek, 1050 S. New Street, said he is an advocate of a balanced budget and approves of the increase for refuse collection. He expressed some concerns about the sewer fund and hopes that the program will be paying for itself by the time the whole Township has public sewer. Mr. Pavelchek asked if the improvements to Shiloh Road are included in the budget. Mr. Genzano responded that money is set aside in a turn back fund from the state for this project. Mr. Pavelchek asked if the hazardous tree work in Oakbourne Park has been canceled for 2004. Mr. Layman responded that continuation of the work is not in the budget for 2004.

At this time the Board of Supervisors unanimously approved Resolution 2003-18 to increase the Township Real Estate tax from .5 mills to .7 mills.

Mr. Scipione made a motion, seconded by Mr. Orlando, to approve the budget as presented and adjusted to reflect the increase of milage from .5 to .7. Mr. Genzano responded in the negative to this motion. He thanked Mr. Layman for his work on the budget but stated the lack of due diligence by the Board on the police budget is the issue with him. The Board of Supervisors approved the budget by a two to one vote.

**VI. New Business.**

**A. Appointments to the Planning Commission.**

Mr. Orlando said there would be two appointments this evening. Christopher Kurth, 1409 E. Street Road, is appointed to fill the unexpired term of Mary Pauman through 2006. Paul Huberty, 502 Jeroma Lane, is appointed to fill Nick Bibbo's term through 2005.

Mr. Genzano made a motion, seconded by Mr. Scipione, to approve the appointments of Christopher Kuth and Paul Huberty to the Planning Commission. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved the appointments. Mr. Orlando thanked the applicants for their willingness to serve the Township.

**B. 2004 Auditor Appointment.**

Mr. Orlando asked for a motion to approve re-appointment of Mingis, Gutowski and Company as the Township Auditor for 2004. He also stated their fee has increased by \$500.00 this year.

Mr. Scipione made a motion, seconded by Mr. Genzano to re-appoint the firm of Mingis and Gutowski as Auditor for 2004. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved the Auditor appointment.

**C. Approval of the 2004 –2006 Regional Hazardous Waste Collection.**

Mr. Orlando stated that the County has a collection four times a year for hazardous waste in various county locations at no charge to the residents and a minimal cost to the Township.

Mr. Scipione made a motion, seconded by Mr. Genzano, to approval the 2004-2006 Hazardous Waste Collection with Chester County. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors approved the collection.

**D. Westtown-East Goshen Police Department Building Ownership Agreement.**

Mr. Orlando stated that the Board has two East Goshen proposals, one dated December 10<sup>th</sup>, and the other dated December 12<sup>th</sup>. Mr. Genzano said the original proposal has East Goshen paying a percentage of the debt for the cost of the new building on a yearly basis but in the proposal of the 12<sup>th</sup> East Goshen wants to pay their 1.85 million dollar share as a lump sum payment. He asked Mr. Layman to review the public meeting that was held with East Goshen on the 10<sup>th</sup>.

Mr. Layman said ownership of the building and how the debt service would be paid were the topics of discussion. He stated Westtown is acquiring a 4 million dollar loan for both Townships. East Goshen's responsibility for the debt service is 1.85 million dollars. Mr. Layman said that if in the future Westtown and East Goshen decided to have separate police departments East Goshen would still be responsible for their share of the debt. He stated that it is important that WEGO maintains a long term relationship. He stated it was discussed that payment of the debt service by both East Goshen and Westtown would be run through the PPU's. He also stated that it was not determined how Thornbury, who is not a partner in the Department, would be charged.

Mr. Orlando said he feels the Board needs another meeting to discuss this new proposal and to forward their comments to East Goshen. He said he has some concerns with the language in the agreement pertaining to ownership issues and contracting municipalities. Mr. Genzano said he feels the cost of the new building needs to go into the police budget. Mr. Orlando said the way the proposal reads East Goshen is not proposing that the debt service would be part of the police budget.

The Board discussed how the debt service and rent should be handled through the PPU's and the police budget. It was also questioned if Westtown Township must accept the 1.85 million dollars in a lump sum from East Goshen. Mr. Genzano said a big concern is that East Goshen is not showing a commitment to Westtown to stay as a regional force. He stated that East Goshen should agree to at least a ten year partnership and if they dissolve the department in five or seven years there should be a financial penalty placed on them. Mr. Scipione said Westtown should reject taking the 1.85 million up front and ask for a ten year commitment from East Goshen. Mr. Genzano said if East Goshen dissolves the department after ten years any principal would be paid back. Mr. Layman was directed to amend the second paragraph of the December 10<sup>th</sup>, 2003 proposal to reflect that Westtown is looking for a long term commitment and if the department is dissolved by mutual agreement East Goshen will receive back what they put in but will not receive anything if dissolved in less than ten years; after ten years they would receive 100%.

Mr. Scipione made a motion, seconded by Mr. Genzano, to approve the Westtown-East Goshen Building Ownership Agreement proposal dated 12/10/03 as amended. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved the agreement.

**E. Ordinance 2003-6 2003 General Obligation Bonds -Westtown East Goshen Police Station Funding.**

In attendance were Michael Wolf, Dolphin and Bradbury, and David Franklin, Bond Counsel, Pepper Hamilton.

Mr. Wolf referred the Board of Supervisors to Exhibit B of the 2003 general obligation bonds. He stated the interest rates are very good ranging from 1.7% to 4.6% with an average rate of 4.087%. The bond issue has a debt service that will be level beginning in 2005 of \$306,000 to \$307,000 per year. He stated that Exhibit B1 and B2 show the debt service in two parts. B1 is Westtown's portion of 2.15 million with a yearly share of \$165,000. B2 is East Goshen's portion of 1.85 million capped out at 46% of \$143,000 per year for twenty years. He stated that the bonds have been sold and he feels that it may not be an option at this late date for East Goshen to pay in one lump sum. He stated the 4 million was spread over twenty years and we do not have the capacity for East Goshen to pay their share in cash. He stated that the ordinance for purchase of the bonds was advertised for adoption this evening.

Mr. Franklin explained to the Board that the bond issue was based on the fact that the Township was going to borrow the cost of the project and East Goshen would submit annual payments to the debt service. He stated the problem with East Goshen wanting to put the capital up front relates to the federal tax laws. The Treasury Department does not want you borrowing tax exempt money, either before you need it or more than you need. He stated you have to have reasonable expectations to spend 85% of the money borrowed within three years. Mr. Franklin said if you accept the money from East Goshen you have to have reasonable expectations to need the 4 million dollars. He stated as I represent you I am just cautioning you.

Mr. Wolf reviewed the debt service and stated that he does not feel Westtown needs a contract with East Goshen to run to 2023 as long as the Board understands they would be responsible for East Goshen's \$140,000 if they stop paying. Mr. Adams advised the Board that the ability to pay the bonds was based on Westtown's credit alone, not East Goshen's. Mr. Wolf suggested showing East Goshen the schedule of payments. The bonds can be pre-paid in whole or in part beginning in five years.

Mr. Franklin stated that the Board needs to approve the Ordinance this evening if not the interest rates would change. He advised the Board to accept Mr. Wolf's proposal. Mr. Adams stated accepting the bond proposal eliminates East Goshen from paying up front. Mr. Genzano said he is still uncomfortable due to East Goshen's lack of commitment at the December 10<sup>th</sup> meeting.

After further discussion Mr. Franklin suggested that Mr. Wolf amend the purchase contract so that the Township is not obligated to deliver bonds to him if they have not reached an agreement with East Goshen that is satisfactory in forty-five days.

Mr. Scipione made a motion, seconded by Mr. Genzano to approve Ordinance 2003-6 for authorization of series 2003 General Obligation Bonds in the amount of 4 million dollars for purposes as indicated in the Ordinance in accordance with the proposal as amended. Mr. Orlando asked for public comment. There was no public comment at this time. The Board of Supervisors unanimously approved Ordinance 2003-6.

**II. Public Comment (all topics)**

There was no public comment at this time.

**VIII. Payment of Bills.**

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

**IX Adjournment.**

At this time Mr. Scipione presented Mr. Orlando with a citation, which was read into the record, from the Pennsylvania State Senate for his years of service to the Township. Mr. Scipione stated that Mr. Orlando had served as a Supervisor for six years and on the Planning Commission for fourteen years. He said Mr. Orlando is a fine person with whom to work. He said most important in ones character is honesty in everything; then everything else falls in line. He stated that Mr. Orlando personifies this.

Mr. Orlando thanked everyone and said he has enjoyed his time and hopes he has given something to Westtown. He stated that he has always tried to give his best and do what is best for Westtown.

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

Respectfully Submitted  
Robert L. Layman  
Township Manager