

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING
Westtown Township Municipal Building, 1039 Wilmington Pike, Westtown
Monday, August 3, 2015 at 7:30 PM

In attendance were: Chair Mike Di Domenico, Vice Chair Carol De Wolf, Police Commissioner Tom Haws, Township Manager Rob Pingar, Township Roadmaster Mark Gross, Township Solicitor Patrick McKenna, Historical Commission Chair Dave Walter, and Planning Commission Chair Dick Pomerantz. There were 18 guests present.

I. Pledge of Allegiance & Call to Order

Mr. Di Domenico led the Pledge of Allegiance and called the meeting to order at 7:30 PM. He asked if anyone in the audience was using a recording device. There was none.

II. Approval of Minutes (July 6, 2015)

Ms. De Wolf made a motion to approve the July 6, 2015 minutes. (The July 20 Board meeting was cancelled.) Mr. Haws seconded the motion. There were no comments and the minutes were approved.

III. Workshop Meeting Summary (August 3, 2015)

Mr. Di Domenico stated that the Board held an executive session on July 22, meeting with East Goshen Township Supervisors to discuss police personnel matters. An executive session was also held on July 27 regarding litigation. He then summarized the workshop session. The Board discussed WEGO Police Protection Units (PPUs) and 12-hour shifts. A Sewage Management Program (SMP) civil assessment hearing was cancelled. The Board also discussed the withdrawal of the Bozutto Crebilly application.

Megan Bruns, 4 Jacqueline Drive, asked what the Bozutto withdrawal letter means with respect to future development. Mr. Haws responded that the application has been withdrawn, and that based on the discussion during their workshop session, the Board has added the Special Use Overlay (SUO) to the regular agenda tonight. Mrs. Bruns also asked if the new stop sign on Jacqueline Drive was collecting speed data. Mr. Haws stated that it was. He added that the Township is working to have a sign installed at the entrance to the neighborhood that will hopefully emphasize that the area is residential, and therefore help reduce speeding.

Mr. Haws stated the Board also discussed improvements to the administrative offices in the Township building.

Mr. Di Domenico announced that after almost three years of due diligence on the part of the Planning Commission, the Historical Commission, the Board of Supervisors and staff, the Bozutto Development Company, Crebilly Farm Family Associates, Westminster Presbyterian Church, and the Westtown Partners Limited Partnership have withdrawn their petition for the SUO text amendment and application for conditional use to build apartments on the Route 202 corridor of the Crebilly Farm.

Mrs. Bruns stated her appreciation for the time and energy that the Planning Commission, Board of Supervisors, and everyone involved spent helping to maintain the current community.

Ken Lawson, 140 Mount Moore Road, Downingtown, added his appreciation and thanks for considering the historic component of property, and for the work the Historical Commission did to preserve the property.

Mr. Di Domenico thanked all those who were party to the application for their time.

Mr. Haws clarified that the Board did not make any decision on the application. The developer withdrew the application.

Switching gears, Mr. Haws then elaborated on the topic of police PPUs. He explained that officer patrol time is billed to each township (Westtown, East Goshen, & Thornbury) using PPUs. During the past year, there has been an increase in PPUs in East Goshen, prompting a closer examination of the PPUs for each municipality. Data over the past 5 years illustrated that PPUs for Incidents (any call for service) have remained relatively steady, while PPUs for Investigations (follow up on crimes) have decreased in Westtown, but increased in East Goshen. East Goshen has more commercial districts and a larger population.

There were no other questions from the public regarding the workshop.

IV. **Departmental Reports**

A. **Public Works – Mark Gross**

Mr. Gross reported that the speed sign on Jacqueline Drive was delivered and installed. It is solar powered and has a cellular connection so speed data can be easily downloaded and programmed using a phone.

The road crew worked on regrading and re-contouring stormwater basins to remove silt buildup, and installing velocity dissipaters to slow stormwater. They also installed “Intersection Ahead” warning signs on southbound Shiloh Road at Plumly Road to address a visibility issue south bound created by the hill.

At Oakbourne Park, the tennis courts were pressure washed, severe cracks were repaired, and sections of the court were painted. Mr. Gross stated that the courts are aging and will require major renovation in the next few years, which should be considered during budgeting.

The crew installed 200 cubic yards of ADA certified wood carpet (mulch) on the playgrounds at Oakbourne and Tyson parks. Unfortunately, the mulch was delivered on one of the hottest, most humid days of the summer.

Future projects include working on the stone walking trails that have been damaged by heavy rains. He plans to bring in a large asphalt roller to roll the base, and re-contour some of the trails and the grass swales to try to divert some of the water runoff. There are also two large hazard trees that need to be brought down. A crane will be brought in to do the work.

Doug Anderson, 606 Jacqueline Drive, asked if the Jacqueline Drive speed information would be made available to the public. Mr. Gross stated that it would be made available upon request at the Township Building.

Mr. Di Domenico asked Mr. Gross when the road resurfacing would commence. Mr. Gross replied that the Notice to Proceed date is August 13, with 45 days to complete the project. He said that the week of the 17th is more realistic start date. The plan is to start in the Carmac & Marlboro Road area. A subcontractor is doing the milling, and Glasgow is doing the base work and overlay. The entire project should be complete by the end of September.

Mr. Haws asked about the Pleasant Grove pump station repairs. Mr. Gross stated that rebuilding the pump takes about three weeks and would probably be back by the end of next week. Mr. Haws also asked Mr. Pingar about a Capital Improvement plan for the sewer infrastructure. Mr. Pingar stated that he and Mr. Gross are meeting with Carroll Engineering on Wednesday to discuss that project.

There were no other questions or comments.

B. Building Department – Rob Pingar

Mr. Pingar stated that 65 permits were issued in July including 26 Certificates of Occupancy (12 residential resale, 13 residential miscellaneous, and 1 commercial) and 30 building permits (22 residential and 8 commercial, including a fit out for the Farmers Market at the old Acme). A Planet Fitness will also be going into the center. A demolition permit for the old PNC Bank on Rt. 3, several plumbing and HVAC permits, and 4 zoning permits were also issued in July.

There were no questions or comments.

C. Historical Commission (HC) – Dave Walter

Mr. Walter reported that the Susan Van Vonno, the Florida woman with two ancestors buried in the Taylor Family Burial ground, heard from Veteran's Affairs and they are asking for proof of burial of Colonel Taylor and his son Titus. Their burials were before cemetery records were kept, and neither the family bible nor Colonel Taylor's will offer evidence of burial. Consequently, Mr. Walter suspects her application will be denied. In that case, Ms. Van Vonno plans to try to raise funds privately to buy stones for the soldiers buried there.

Mr. Walter also provided an update on the NRHP application for Oakbourne Mansion. The HC recommends that Jane Dorchester prepare the application, and he asked for clarification on whether the HC or Mr. Pingar would contact her. The Board authorized Mr. Walter to solicit for quotes to prepare the application.

Mr. Walter stated that events such as the demolition of the old PNC building and changes at the old Acme demonstrate the purpose of the HC's documentary project to photograph all commercial, institutional, retail, and residential complexes presently in the Township for future reference. He stated that the HC will begin this project in autumn when the absence of foliage will make photographing easier.

Mr. Walter asked if the applicants to fill the vacancy on the HC would be considered at the next Board Workshop on September 8. Mr. Pingar replied that he has received two applications, and would arrange interviews. Mr. Walter said he hoped they could be scheduled for the next Board workshop meeting.

Mr. Walter thanked the Township for advertising the West Chester Railroad (WCRR) History Train. Rider feedback was very positive and the WCRR may run another History Train this fall.

There were no comments or questions from the public.

D. Planning Commission (PC) – Dick Pomerantz

Mr. Pomerantz reported that at their July 22 meeting the PC discussed a draft ordinance on residential chicken keeping. He stated that the PC meeting minutes cover the discussion extensively. He stated that residents Doug Anderson and Eva Foster provided considerable insight.

On the agenda this week (August 5), the PC will have representatives from Brandolini in to discuss plans for the Giant, a Zoning Hearing Board (ZHB) exception for 1420 Rollins View Drive, and the Fair Share/Malvern School project.

There were no comments or questions from the public.

V. **Public Comment Non Agenda Items**

Richard Pomerantz, 1005 Robin Drive, read a prepared statement on his thoughts regarding the Bozzuto project. He stated that every experience can be a learning experience, and the more significant the experience, the more important the lessons learned. He felt the Bozzuto project was one of the most significant development initiatives in Westtown. He respectfully suggested that the township administration and the Board of Supervisors conduct a “post mortem” and ask how it could do better in handling future applications.

There were no other comments or questions from the public.

VI. **Old Business**

A. **Arborview Subdivision - Public Improvements Dedication**

Township Solicitor, Patrick McKenna, stated that the Arborview subdivision public improvements has been on hold since June due to a dispute over outstanding engineer review fees owed by the applicant. At that time, the decision was made to defer dedication. Mr. McKenna stated that the issue is now resolved, and deferred to Mr. Pingar for confirmation. Mr. Pingar stated that Mr. Galbally has paid all fees. Assuming that has been resolved to the Board's satisfaction, Mr. McKenna stated that the first step is to acknowledge and accept the Deeds of Dedication offered by Greenstone Development associated with the Arborview Subdivision (Hidden Pond Way, sanitary sewer line easement, and W. Pleasant Grove Road Right of Way).

Mr. McKenna stated that the first agreement for consideration of approval is the Maintenance Agreement covering the applicant's responsibilities regarding maintenance of the public improvements. Ms. De Wolf stated that the Board has not seen the agreement. Mr. Pingar stated that he had the agreements and they had been vetted by Mr. McKenna, the Township Engineer, and himself. He added that they were standard agreements. Mr. Haws and Ms. De Wolf stated that they were fine with the vetted agreements, but Ms. De Wolf instructed Mr. Pingar to include all documents for Board consideration in their packets going forward. Mr. Di Domenico then also stated he was fine with the agreements.

Mr. Haws made the motion to approve the Maintenance Agreement with Greenstone Development Corp (Arborview Subdivision) for the public improvements associated with Hidden Pond Way, the additional ROW on W. Pleasant Grove Road, and the sanitary sewer easements and sewer lines located within those sewer easements. Mr. Di Domenico seconded the motion. The motion passed 2-1 with Ms. De Wolf abstaining.

Mr. McKenna read Resolution 2015-2 to accept dedication of Hidden Pond Way. Ms. De Wolf made a motion to approve Resolution 2015-2, seconded by Mr. Haws. The motion was approved without comment.

Mr. McKenna then read Resolution 2015-3 to accept dedication of Sanitary Sewer Easements and the sewer lines located within those easements. Ms. De Wolf made a motion to approve Resolution 2015-3, seconded by Mr. Haws. The motion was approved without comment.

Mr. McKenna read Resolution 2015-4 to accept dedication of additional Right of Way along W. Pleasant Grove Road. Ms. De Wolf asked what how much additional ROW we requested. Mr. Pingar stated that the ROW measures 30 feet from the center line. It was previously 16.5 feet. Ms. De Wolf made a motion to approve Resolution 2015-4, seconded by Mr. Haws. The motion was approved without further comment.

The final matter relating to the public improvement dedication was the Temporary Emergency Access Easement Agreement with Greenstone Development Corp. This was required to allow access to Hidden Pond Way until the connector road is constructed. Mr. Pingar stated that the

approved plan for Arborview showed an emergency access at the end of the cul-de-sac. Ms. De Wolf made a motion to approve the Temporary Emergency Access Easement Agreement, seconded by Mr. Haws. The motion was approved without further comment.

B. Special Use Overlay Amendment (SUO)

This item was added to the agenda as a result of the workshop discussion regarding the withdrawal of the Bozzuto SUO amendment application. Mr. Di Domenico stated that the Board is making a motion to repeal Article 13 of the Westtown Township Zoning Ordinance. Mr. McKenna elaborated on the discussion during the workshop regarding the withdrawal of the Bozzuto application. He stated that the question arose as to what effect that has on the existing SUO overlay district and what action, the Board is looking to take. He asked Mr. Di Domenico if he was making a motion, or if he wanted to discuss the issue. Mr. Di Domenico reconsidered and said the issue would be discussed, and then a motion would be made if needed.

Mr. McKenna explained that Article 13 of the Zoning Ordinance entitled "Special Use Overlay District" affected a portion of the Crebilly tract. The Board is suggesting repealing that section so there would be no SUO overlay district at all. The balance of that parcel would be zoned Agricultural Cluster/Residential (AC), and limited to the uses that are permitted by the AC district. He then asked for comments.

Ms. De Wolf asked Mr. McKenna to explain the SUO. He stated that the SUO permits all the uses of the underlying district and then adds additional uses only on the area under the overlay. Referencing the zoning map in the meeting room, Mr. McKenna showed the area being discussed from Rt. 202 at Rt. 926 back to South New Street. The overlay section was about 1/3 of the Robinson/Crebilly Farm tract. The uses permitted By Right in the AC district are: single family detached dwelling, agricultural uses, building structures or uses owned and operated by the Township, and accessory uses in addition to the permitted principal uses. There are a number of uses permitted by Special Exception which go to the Zoning Hearing Board: bed and breakfast facilities, day camps, riding academies, swimming clubs, athletic fields, golf courses (excluding golf driving range and miniature golf course), religious use, primary and secondary school, major home occupations, accessory dwelling units, conversion of a single family dwelling, and farm related business. Conditional uses include adult community developments meeting requirements of the Zoning Ordinance, and residential development in accordance with the flexible development. Those are the uses permitted in the AC district either By Right, Special Exception, or Conditional use.

The SUO district permits all of those uses as well as the following uses when permitted by Conditional Use: Business Center Developments (BCD) and Continuing Care Retirement Communities (CCRC). BCDs include offices, corporate headquarters, administrative or professional buildings, research or lab facilities, rehabilitative service centers, wellness centers, patient hostels, health or medical clinics, hotels where not located within 1500 feet of any other hotel, conference facilities, private vocational business and professional schools except those of an industrial character, day care centers, and selected industrial uses provided that they demonstrate certain criteria can be met, limited retail commercial use including but not limited to pharmacy, coffee shop, restaurant without drive thru, newsstand, financial institution, ATM, financial services, travel consultant, private club, under or above ground parking, and bus stop or transportation centers. Those are all the uses currently permitted by Conditional Use in the Special Use Overlay.

Mr. Haws explained that the SUO was enacted in 2007 as part of the Presby Homes CRCC application. That project was never built due to economic downturn, but the SUO has been in place since that time. The SUO was approved by the Board at that time (predating Mr. Haws' seat on the Board) because it included a large amount of open space. The Bozzuto application included a request to amend the SUO to include apartment complexes. He stated that the Township is currently beginning the process of updating the Comprehensive Plan and felt it was

prudent for the Board to direct the Township Solicitor to repeal the SUO. He stated that there are uses within the SUO with which he is not comfortable, and felt it is in the best interest of the Township to repeal the SUO.

Ms. De Wolf added that discussions with the landowner to determine his desires would benefit the Township. She felt there were some uses in the SUO that are valuable, speak to good planning, and would be beneficial to the Township. She said it was good planning to develop the eastern side of the property. She said eventually the property will be developed, and there were aspects of the Bozzuto plan that were totally appropriate development on the 202 corridor. The landowner has certain rights and she felt there is a happy medium that can be reached.

Mr. Di Domenico stated that the land owner could submit another application tomorrow under the current SUO. He asked Mr. McKenna if the Board repealed Article 13 (SUO), could they add certain elements of it back at a later date. Mr. McKenna replied that the Board could enact another SUO or amend the Zoning Ordinance at any time. Ms. De Wolf clarified that the current Zoning Ordinance protects against developing sensitive environmental or historical areas.

Mr. Haws commented that Ms. De Wolf was on the Board when the SUO was approved. He and Mr. Di Domenico were not, but he understood that the whole reason for granting the SUO was because the developer and land owner were preserving a large portion of the land for open space. Ms. De Wolf commented that then the project progressed to include 13 large lots and went beyond the original intent of the SUO. To protect the Township, Mr. Haws suggested a "time out." He recommended removing the SUO and doing some thoughtful planning on the long term needs of the community. He also clarified that the Conditional Uses already approved are grandfathered (CCRC or large homes). The Township would not be revoking the landowner's right to develop already approved applications. Mr. Di Domenico stated that he concurred with Mr. Haws, and felt the Township should make the motion to repeal the SUO.

Mr. Haws made the motion to instruct the Township Solicitor to begin the process to repeal Article 13 of the Zoning Ordinance. Mr. Di Domenico seconded the motion. Mr. McKenna called for public comment.

Bob Dilullo, 1004 Supplee Way, stated that he agreed with Ms. De Wolf that it would behoove the Township to communicate with the Robinsons to find out their current development plans, rather than repealing the SUO. Mr. Haws responded that the Board approached the landowner several months ago, and have not heard back from the Robinsons. Mr. Dilullo also made the point that Westtown does not have a great tax base, and said that the Township should consider commercial development to enhance the tax base. Mr. Di Domenico agreed. Mr. Dilullo said it seemed that allowing apartments was the major issue in the Bozzuto application. Mr. Haws said the SUO amendment they requested would have allowed apartments. Regarding the tax base, Mr. Haws added that the current SUO allows for schools, which would provide no tax revenue, and felt the Supervisors should re-examine allowing that use.

Bobbie Pomerantz, 1005 Robin Drive, asked for clarification on the discussion put forth by Mr. Jaros last summer when he spoke of a potential for 275 houses, and she asked whether that would in fact be allowed under the approved SUO. Mr. Di Domenico stated that it would. Mr. Haws stated there is a plan on file for that. Mr. McKenna stated a By Right Stand Still Agreement to hold everything in abeyance was filed, but it was never reviewed or voted upon. Mr. Haws stated that under the current SUO a CCRC or 275 homes could be built. Mrs. Pomerantz continued, asking about the For Sale signs that were up last summer. Ms. De Wolf explained that two large parcels were sold. Mr. Haws stated that these properties are both on the west side of S. New and were not part of the Bozzuto application.

Mrs. Pomerantz asked about the process to repeal an ordinance. Mr. McKenna stated that the SUO cannot be repealed tonight. In order to repeal an ordinance he has to draft an ordinance, and that process takes time. It has to go to the Westtown Planning Commission and then the

Chester County Planning Commission for review, then advertised pursuant to the Municipalities Planning Code (MPC), the Zoning map would also have to be amended, and then it would be voted upon. She asked Mr. McKenna the potential downside of repealing the SUO. Mr. McKenna said from a legal standpoint there is nothing to prevent repealing an ordinance. It happens all the time, depending on changes in the Board, the Planning Commission, and their appetite for development. He declined to weigh in on the pluses and minuses of repealing the SUO, stating that was a decision for the Board.

Mrs. Pomerantz asked about the impact on the value of the land (Crebilly Farm) if the 2007 SUO is repealed. Mr. Haws stated that although he sympathized with the Robinsons (owners of Crebilly Farm), the Board is elected to look out for the residents as a whole, not an individual property owner. He said over the past two years the Board has heard from residents who have concerns about the development of that property. He felt it was prudent to re-evaluate the SUO and the Comprehensive Plan to protect the interests of the community, and ensure that any future development includes sufficient open space, considers the tax base, and is beneficial to the Township as a whole. She requested that this portion of the minutes be detailed. Mr. Di Domenico replied that the public comments on the SUO would be captured as close to verbatim as possible.

Russ Hatton, 940 Kilduff Circle and Vice Chair of the Planning Commission, asked if the removal of the SUO would also remove the Business Center Development (BCD). Mr. McKenna stated that was correct; the BCD is only permitted by Conditional Use in the SUO. Mr. Hatton said that under the SUO there had been plans for the CCRC or commercial development on the eastern portion of the property, and the rest of the land could have been developed under the approved 2002 plan for houses. He said that if the Board removes the SUO, then Mr. Robinson could use the 2002 plan. Mr. Haws stated that was correct. Mr. Pingar added that the Robinsons are vested with the 2002 approved Conditional Use. Mr. Hatton stated that under the SUO the land owner could put townhouses, ¼ acre lots like Rustin, and other high-density development.

Finally, Mr. Hatton stated that the Township now has an Open Space plan that he thinks sometimes gets lost in discussion. He said the Township should continue to maintain its open space. Mr. Di Domenico said that the Open Space issue is what brought the Board to consider repealing the SUO. In 2007, the Township didn't even have an Open Space plan. He said the Board will take it all into consideration. Mr. Haws clarified that the motion is for the solicitor to start the process to repeal the SUO. It will then go to the Township Planning Commission and the Chester County Planning Commission for review and input. During that process, the Board could decide not to repeal the SUO.

Doug Anderson asked if anyone has considered open space options for the property. He said read in the Daily Local about Chester County Open Space grants. Mr. Haws stated that the Township does not currently have funds to purchase the property. Ms. De Wolf added that some municipalities have Open Space bonds to match county funds for preserving open space. Ms. De Wolf stated that Mr. Haws is correct; the Township would have to borrow funds to purchase the land. She explained that there is a process to apply for an Open Space bond that could be used for the required funds to match Dept. of Conservation and Natural Resources (DCNR) grant money. She said the cost to residents would be relatively low. Given that the Township already has sewer debt, she said this is an issue that would need to be evaluated.

Richard Pomerantz, 1005 Robin Drive, acting on behalf of the Planning Commission, asked when the Township would be engaging a planner to help draft the update to the Comprehensive Plan. Mr. Haws responded that the Township is working on an RFP for the Comprehensive Plan that should be ready shortly. Mr. Pomerantz said he hoped everyone shared a sense of urgency on getting the Comprehensive Plan updated. Ms. De Wolf stated that it would take six months to a year to finish the project.

Walt Pavelchek, 1050 S. New Street, stated that he was a member of the committee to produce the 2001 Growth Management Plan, and the Open Space Plan adopted last May. He stated that Westtown has the lowest tax rate in the area, but that is coupled with the fact that it has a road program that is 20 years behind. According to the Open Space plan the Township spends \$4.60 per resident per year on Parks and Open Space. The state average is \$37. He vehemently stated that if the residents of Westtown really want Open Space, then they ought to press for the money to get it, either through taxes or a bond.

There were no further questions or comments and the motion to begin the process to repeal Article 13 was approved.

VII. **New Business**

A. **1532 Johnny's Way - SMP Civil Penalty Assessment, Appeal Hearing**

The hearing did not take place.

B. **Announcements**

Mr. Di Domenico made the following announcements:

1. Movie Night – "Muppets Most Wanted" 8:30pm Friday, August 14 @ Oakbourne Park
2. WEGO Citizens Police Academy begins September 9, 2015 @ 7:00 pm. Registration information is available on the WEGO website www.westtownpolice.org
3. Neighborhood University begins September 10, registration runs August 31. Visit www.nguwc.org for more information.
4. The Township is seeking to fill a vacancy on the Historical Commission. There are currently two applicants, but interested residents may send their resume and letter of interest to rpingar@westtown.org.

VIII. **Public Comment on All Topics**

There were no comments or questions from the public.

IX. **Payment of Bills**

Mr. Haws made a motion to approve the bills as presented (General Fund \$291,874.34, Capital Project Fund \$18,660.00, and Wastewater Fund \$13,312.95, totaling \$323,847.29). The motion was seconded by Ms. De Wolf. There was no public comment and the check registers were approved.

X. **Adjournment**

Ms. De Wolf made a motion to adjourn the meeting, seconded by Mr. Haws. The meeting was adjourned at 9:40PM.

Respectfully submitted,

Robert R. Pingar
Township Manager