

WESTTOWN TOWNSHIP BOARD OF SUPERVISORS REGULAR MEETING
STOKES ASSEMBLY HALL, 1039 WILMINGTON PIKE
July 16, 2007, 7:30Pm

In attendance were Supervisors Chair Carol R. De Wolf, Vice Chair Thomas A. Foster, and Charles P. Barber Police Commissioner; Township Manager Robert Layman; Westtown-East Goshen Police Sergeant Gorman; Township Solicitor Robert F. Adams; and Township Planning Commission Member David Walter. There were nineteen guests in attendance.

DRAFT

I. Call to Order.

As there was a quorum present Chair De Wolf called the meeting to order at 7:35 PM and led those present in the pledge of allegiance to the flag.

II. Approval of Minutes (July 2, 2007 Regular Meeting).

Mr. Foster made a motion, seconded by Mr. Barber, to approve the minutes of the July 2, 2007 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. Departmental Reports.

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

Sergeant Gorman presented the June Police Report. Mr. Barber asked if they have been able to locate the owner of the vehicle that damaged the traffic signal at Routes 3 and 352 so this could be reported to our insurance company. Sergeant Gorman responded that this incident is still under investigation.

B. Westtown Township Solicitor – Robert F. Adams.

Mr. Adams said he is preparing the Conditional Use decision for Fair Share Properties for the Boards acceptance and execution at their August 6, 2007 regular meeting.

Ms. De Wolf asked Mr. Adams to explain to those present why it was acceptable for the Board to meet with DEP in a closed meeting. Mr. Adams said that when the Board knew that they would be meeting with DEP they asked him for a ruling under the Sunshine Law. Mr. Adams stated that in their judgment this was not the type of meeting that was required under the Sunshine Law to be open to the public. If the meeting requires formal action or deliberations leading to formal action that meeting must be open. This was a DEP meeting it was not up to the Supervisors of Westtown for its purposes to call it a public meeting. Mr. Adams said that if someone had shown up and wanted to be in the meeting he expected that DEP would have let them attend. He stated that this was not a public meeting for Westtown Township as defined under the Sunshine Law and stated that he was very comfortable with that position.

C. Planning Commission.

Mr. Walter stated that due to the lack of a quorum the July 11, 2007 Planning Commission Meeting had been canceled. At this week's meeting the Commission will continue review of revisions to the Lighting Ordinance, and review of the Swiss Farms and WAWA Land Development Plans. He stated the revisions to the Lighting Ordinance are almost completed and will include restrictions for lighting of sport fields. The restrictions pertain to height of the lights, hours of use and the number of events per year that lighting can be used for. He stated that there are some concerns relating to the emergency access between Swiss Farms and the Market Place shopping center. The issues with the WAWA plan pertain to storm water management and widening of Manley Road to three lanes. Mr. Walter stated that both Swiss Farms and WAWA will have less

impervious coverage than the properties now have. Ms. De Wolf stated that the Board is beginning review of the proposed overlay for revisions to the A/C zoning district. She asked that the Planning Commission members email Mr. Layman with their thoughts or any issues not addressed in the current language of the revisions.

IV. Public Comment-Non Agenda Items.

Bill Roth, 119 E. Hilltop Road, stated that it was interesting that Mr. Adams indicated that residents could have shown up at the meeting if they felt like it. So why was a formal request by a member of the Township Planning Commission to attend the hearing refused? Mr. Roth stated he feels that the Township is hiding behind the Second Class Township Code. Ms. De Wolf said this was a meeting with DEP not a hearing. She stated there were two requests to attend the meeting but she did not know who they were. Mr. Layman said Richard Pomerantz and Adam Barker had asked to attend. Mr. Roth asked Ms. De Wolf as Chair of the Board why this request was not presented to her. Ms. De Wolf said the Board discussed, through email, if residents should be able to attend. The decision of the Board was that they not be able to attend because of some of the tedious issues the Board had to discuss with DEP. It was felt it was best if they met with themselves, their consultants, and representatives of DEP. Ms. De Wolf said she hopes that she has represented this correctly. Mr. Roth said he feels the whole project from the beginning has been semi-lies, if I can use that word, and innuendoes. Mr. Roth said you have Mr. Foster saying it is almost a done deal unless someone asks him and then it is not. Mr. Roth asked which one of you is going to cast the no vote or is it two to one with the blessing of the solicitor who now says after July 11th that we could have attended the meeting. Mr. Adams advised Mr. Roth that was not what he said. This was not a Supervisors meeting this was a DEP meeting. Mr. Adams said he had stated that he felt comfortable that there was no violation of the Sunshine Law. It was in the discretion of the Board of Supervisors to see if DEP wanted or would permit residents to attend and that could have occurred. The Board exercised its discretion; it did so legally and they did not violate the Sunshine Law. Mr. Adams stated that was my opinion and that was all I said. Mr. Roth expressed that Mr. Adams was just using lawyer words in stating two weeks after the fact anyone could have attended the meeting. Mr. Adams advised Mr. Roth that as the Township Solicitor he does not give advice to him or any other member of the public he gives his advice to the Supervisors.

Wilbur Yocum, 127 E. Hilltop Road, stated that the storm drain between his property and 125 E. Hilltop Road is deteriorating and needs cleaning out. Mr. Yocum stated that the last time any repairs were done was forty years ago. He presented a letter to the Board that had been previously sent to them concerning this. Mr. Layman will address this with the Roadmaster.

Richard Pomerantz, 1005 Robin Drive, said in the morning traffic backs up on Route 926 from Route 352 to Shady Grove Road. He asked if there will be any changes to the intersection of Route 352 and 926 with the new development in Thornbury Delaware County. Mr. Layman responded that there will be left hand turn lanes north and south on Route 352 and right hand turn lanes east and west on Route 926. Mr. Pomerantz asked what is being developed at the intersection as he heard it was either a small shopping center or residential housing. Mr. Layman responded that as far as he knows it is a residential development. Mr. Pomerantz asked, as it is not on the Agenda, if the Board will discuss openly their meeting with DEP relative to the public sewer issue. Ms. De Wolf said it would be discussed under New Business. Mr. Pomerantz said he asked at the July 2nd, meeting for the amount that was paid to URS for each of the four public information meetings. He stated if URS cannot provide an invoice for all four meetings could they just provide the cost of one meeting and if it is a fixed fee they could extricate the cost. He has heard rumors that the cost was between \$2,000 and \$30,000. Mr. Pomerantz stated that this does not reflect well on the Township and also stated that he felt the communication was not good at the meeting he attended at Rustin. Mr. Layman said they have not received all the bills as yet for the meetings. The Township has a contract with URS which includes preparation for the meetings. Ms. De Wolf said she did not feel they could provide a per meeting cost because the contract does not provide for this. Mr. Layman said URS does breakdown the billing and he will be providing Mr. Pomerantz with this information. Mr. Pomerantz said at the last meeting the question was raised concerning the scope of work, and time frame for the road re-construction when the sewer project is done. It was indicated that this information was to be included in the most frequently asked questions concerning the project which is on the website. He asked when this would be available. Mr. Layman will address this with Jill Voeller at URS.

Ms. De Wolf advised those in attendance that Mr. Pomerantz is speaking as a resident not as a member of the Planning Commission. He is not representing the Planning Commission. Bill Roth asked if Mr. Pomerantz had requested to attend the DEP meeting as a member of the Planning Commission. Ms. De Wolf responded no they did not have a request from the Planning Commission only residents.

Frank Wolfe, 1541 Overhill Road, asked how many properties in Westtown are currently on public sewer. Mr. Layman responded approximately 1,700. Mr. Wolfe asked the Supervisors if they have public sewer. Ms. De Wolf said she lives on S. New Street and has an on-lot system. Mr. Foster responded that all the Supervisors have on-lot systems and that neither he nor Ms. De Wolf is in the first phases. Mr. Barber said he lives on Little Shiloh Road on four acres, two of which are in West Goshen and if it was feasible he would connect to public sewer. Mr. Wolfe asked if the plan goes through what would be the user fees for those already on public sewer. Ms. De Wolf said it would be the same as the new connections. Mr. Wolfe said when would that be. Ms. De Wolf said that she could not answer that as the Board has new information from DEP that will be shared during the Agenda section of the meeting. Mr. Wolfe said the fees for those already on public sewer should go up immediately. Ms. De Wolf said those residents would also be upset if their fees were raised. Mr. Wolfe said this is a Westtown project and should be shared by all residents of the Township. Ms. De Wolf said under the proposed plan only the residents on public sewer would pay the fees; the rest of the Township is on septic. Mr. Wolfe asked what it means to be on an on-lot system. Mr. Layman responded the sewer is disposal of on your property and does not go to the treatment plant. Ms. De Wolf stated that your sewer line goes to a holding tank on your property and then into a leach field where the water evaporates. Your system should be pumped annually. A resident asked Ms. De Wolf if she would also pay the \$53,000. Ms. De Wolf responded that she does not make any Township decisions based on where she lives, nor her personal desires; "I dismiss that". She stated: "I represent you. I take your comments, your desires and I speak for you not for myself". Ms. De Wolf stated that she has listened and that she thinks you will be very pleased with what we are about to tell you. Resident asked what Ms. De Wolf would be paying. Ms. De Wolf responded she did not know as her property is in the fifth phase. Mr. Wolfe asked what was the amount of the bid. Ms. De Wolf stated the construction has not been bid. Mr. Wolfe asked how did you determine the charges. Mrs. De Wolf stated that they are estimates. Mr. Wolfe asked if there is any place in this entire country that has put such an enormous financial burden on its homeowners for public sewer as the Board has proposed. Ms. De Wolf said she wished she could answer that question but only has information on our surrounding Townships. She stated that our tap in fees for new construction are compatible but our projected user fees are three times higher. Mr. Wolfe asked how many homes are in Westtown. Mr. Layman responded approximately 3200. Mr. Wolfe said he proposed that if the plan goes through every homeowner in Westtown should pay for it not just the 900 residents as everyone benefits from this and they should all share the burden. He also asked Ms. De Wolf when he would receive the survey. Ms. De Wolf stated in the New Business section of the meeting their will be a brief update that will answer his questions.

Gary Dougherty, 131 E. Street Road, expressed his concern and fear over the sewer project. He stated his position that he did not want sewer, nor do his neighbors or any of his friends who live in Westtown. Mr. Dougherty asked what is the status for those individuals who oppose the project for their residence. Mr. Foster stated that the Board had an informal meeting with DEP, meaning they talked we listened, they asked questions. It was a very informative meeting. Mr. Foster said that tonight was the first time the Board had a chance to deliberate what they were told at DEP. He stated they would be presenting a press release probably tomorrow which should answer all of your questions to your satisfaction. Mr. Dougherty said without further information at this time, he is strictly opposed to the project and does not want to participate in any of the funding for it. Ms. De Wolf said that is the message the Board took to DEP. Mr. Dougherty said there are a number of residents in unison on this matter and we will take whatever legal action is necessary.

Richard Pomerantz stated that as a member of the Planning Commission he felt he had a right to attend the DEP meeting and his request to attend was written as a member of the Commission. Mr. Pomerantz stated that he understands the emotions of the residents but stated that Board has a tough job and he does not envy them. He stated that he feels when speaking to the Board it should be calmly, rationally, and with a certain civility.

Marge Jones, 1543 Overhill Road, said that they would love to be calm when they speak to the Board but \$54,000 is more money than any of us can pay. She questioned how this could be asked of 900 homes when many more people will be on the system. She said our emotions are running high, it is very frightening, and a lot of people will lose their homes for \$54,000. Ms. Jones said maybe there is another group that could help if the Board can't. Ms. De Wolf advised Ms. Jones that the Supervisors represented the residents when they attended the meeting with DEP and all the comments received at the four meetings were passed to DEP. Ms. Jones asked as the Board was representing the residents did you say that the residents cannot afford this amount of money. Ms. De Wolf said it is unaffordable to a majority of our residents. Ms. Jones said what was their response, too bad? Ms. De Wolf said that was not their response and the Board will be presenting a policy statement in order to eliminate any misinformation. Ms. Jones asked is it legal to put a burden on 900 residents. Ms. De Wolf responded that it is legal. Ms. Jones said maybe we need legal council. Ms. De Wolf stated that she feels the residents will be pleased with the policy statement.

Chuck MacIntyre, 1555 Carmac Road, stated that he was at the intersection of Routes 3 and 352 and saw a funeral procession which included a large number of Westtown-East Goshen Police vehicles and wanted to know why. He called the Police office and was told it was a funeral for the mother of an officer. He asked Mr. Barber, Police Commissioner, if this was a new policy. Mr. Barber stated he was not aware of this and asked how many vehicles were involved. Mr. MacIntyre responded at least fifteen. Mr. Barber will address this issue. Mr. MacIntyre then commented on the sewer issue and stated that the Supervisors are poor salesmen as they have not sold the project to the residents. He said he did not know what would be in the news release but it seems there are a lot of people against this. He stated he would scratch the whole project and update the plant first so there would be more capacity. He also stated this is a lot of money and people cannot afford it.

Meryl Myers, 1542 Overhill Road, stated he protests the sewer as he has a very good system which will still be here when he is gone. He said it is foolish for him to connect to public sewer as his system is working fine. He then stated I don't need it, I don't want it and I can't afford it.

V. Old Business:

A. Accept Resignation Jeff House Planning Commission.

Ms. De Wolf stated that this item was tabled at the last meeting in order to speak further with Mr. House concerning his resignation. Ms. De Wolf said it is with regret that the Board accepts his resignation but his job constraints require this.

VI. New Business:

A. Approve Gate House Rental.

Mr. Foster stated that Thomas Spackman, Realtor, has negotiated a lease for rental of the Gate House. The Gate House will be rented as of August 1st, 2007. The rent will be \$1450.00 per month. The Township will be the official rental agent for the Gate House.

Mr. Foster made a motion, seconded by Mr. Barber, to approve the rental lease, as presented, for the Gate House in the amount of 1,450.00. Ms. De Wolf asked for public comment. There was no public comment. The Board of Supervisors unanimously approved the lease.

B. Accept Resignation Michael Murray Parks Advisory Group.

Mr. Foster made a motion, seconded by Mr. Barber, to accept the resignation of Michael Murray from the Parks Advisory Group. Ms. De Wolf asked for public comment. There was no public comment. The Board of Supervisors unanimously accepted the resignation.

C. Approve Payment Request No.2 Bulldog Construction in The Amount of \$92,772.25 Ponds Edge Road.

Ms. De Wolf stated that URS, inspector for the project, has reviewed and approved the payment request. Mr. Foster stated this was to repair the old original sewer lines on Ponds Edge Road.

Mr. Foster made a motion, seconded by Mr. Barber to approve payment request No.2 Bulldog Construction in the Amount of \$92,772.25. Ms. De Wolf asked for public comment. Ms. Jones asked what the payment was for. Mr. Barber responded for repair of old sewer lines on Ponds Edge Road. The Board of Supervisors unanimously approved the payment to Bulldog Construction.

D. URS Contract Proposal Shiloh Road Sewer Construction Inspections.

Ms. De Wolf stated the proposal is for inspections services for the sewer line installation on Shiloh Road. The Board felt that the sewer lines should be installed at the same time the road improvements were being done on Shiloh Road.

Mr. Foster made a motion, seconded by Mr. Barber, to approve the URS contract proposal for inspections of the Shiloh Road Sewer line project not to exceed \$26,500. Ms. De Wolf asked for public comment. Ms. Jones asked what is the cost of the bid. Ms. De Wolf responded this is a proposal for professional services. She stated the project has already been bid and the bid awarded. The Board of Supervisors unanimously approved the URS contract proposal.

D. Accept Conditional Use Application Tract 2007-3 Exxon routes 3 & 352.

Mr. Foster made a motion, seconded by Mr. Barber, to accept the Conditional Use Application tract 2007-3 Exxon for the installation of a car wash and pass to the Planning Commission for review. Ms. De Wolf asked for public comment. Mr. Wolfe asked if the WAWA was going to be a gas station. Mr. Foster responded that this is not for the WAWA but for the existing Exxon Station. They would like to install a car wash and they need Conditional Use approval from the Board in order to do this. The Board of Supervisors unanimously accepted the Conditional Use Application for Tract 2007-3 Exxon and passed to the Planning Commission for review.

VII. Public Comment (All Topics).

Mr. Roth said the sewer issue is emotional. He has been to enough meetings where the Board has gone against the people in this community. The Board has voted for special exceptions and zoning changes that allow large buildings on small lots. He stated this is a developer's paradise. Mr. Roth said his summer has been ruined and he feels like they are getting nowhere.

VIII. Payment of Bills.

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

Ms. De Wolf said she would like to have a short discussion of the Boards findings from DEP on what they can or cannot do. She stated that the Board does not want the news media to misquote them before they can issue the press release. Ms. De Wolf said the Township cannot do the plan that has been proposed as we do not have the capacity and it will be too costly. Mr. Foster said the Township was surprised when they received a recent letter from DEP's permit department stating that they could not expand the existing plant to implement the proposed sewer plan because of the TMDL (Total Mean Daily Load). He stated that DEP enforces the US EPA calculations which have become more stringent and we would not be able to expand our treatment plant because they would not meet the new TMDL calculations. He also stated that DEP is aware of the cost issues with the project. Ms. De Wolf said they are also aware of the resident's comments. Mr. Foster said we cannot move forward with the plan as presented and that DEP has revised the plan to reflect a different approach. The Board will be instituting an on-lot management system which means the Township will be inspecting all the on-lot systems in the Township to determine which ones are failing. This will now be the center piece of the plan not public sewer as presented in the four previous public meetings. Mr. Foster also stated that we do have capacity in the Township treatment

plant without expanding but have to be careful how it is used. Mr. Foster said in order to bring the plant up to compliance it would cost \$10.00 a gallon for treatment of the affluent which is cost prohibitive for the Township. The Township will focus its efforts on better inspection of the on-lot systems. Ms. De Wolf said inspection of the on-lot systems will be done instead of the survey. The inspections will determine what systems need repair, replacement or could if possible be connected to public sewer. Mr. Foster said we are sensitive that there are residents that have problems that we will have to address. Mr. Foster said our plant is in excellent condition and it is the issue of the treatment of the nitrogen and phosphorus in the water that is in question. He stated that any treatment plant in the State with stream discharge will have to face this same issue. A resident asked if there was funding from the State available for the treatment. Mr. Foster responded there is no funding. Ms. De Wolf said they will be starting the on-lot management program within the next few months. She also stated that the current Act 537 plan will have to be amended.

Mr. Myers stated that being in the environmental business he has watched the Township Treatment plant being up graded and knows the work that went into the plant. He stated that the daily flow would be tremendous if the plant was at capacity.

A resident said there are a lot of residents with on-site systems and the Township needs to care about the people who need help. He stated that a sand mound would cost a lot less than the public sewer. He said he feels that residents don't have enough knowledge about on-lot systems. Mr. Foster said education of the residents will be a big component of the on lot management plan. Ms. De Wolf stated that the Township will apply for a grant that pays 85% of the cost of the program.

Mr. Wolfe asked why the Board did not tell this to those in attendance at the beginning of the meeting and put a smile on Mr. Roth's face and salvage his summer.

Ms. De Wolf said to be honest we don't know what portions of the Township we are going to sewer yet and which we aren't. The on-lot management system will be great for the Township but as there are properties that need to be sewered we will have to determine how that will be done. She stated this is where we are but that the Act 537 still has to be amended. She stated her personal opinion that why have public sewer if we don't have to.

Ms. Jones said when they bought their house in 2000 they needed a new septic system but held off as they were told about the possibility of public sewer in the near future. She asked how long before she would know if she can put in a new system. Mr. Layman said they will try to move forward as quickly as possible but as there are a number of steps in the process at this time he cannot give a time frame.

IX. Adjournment.

On the motion of Mr. Foster, seconded by Mr. Barber, the meeting was unanimously adjourned at 8:55Pm.

Respectfully Submitted,

Robert Layman
Township Manager