

Meeting Minutes of January 3, 2011
Board of Supervisors

Chairman Lindborg called the West Brandywine Township (WBT) Board of Supervisors meeting of January 3, 2011 to order at 7:45 pm. Roll call of the Board of Supervisors (BoS) by Manager Rambo noted Supervisor's Carl S. Lindborg, Josef G. Obernier, Sr., and Thomas J. McCaffrey in attendance. It was also noted that the Manager was in attendance.

Acceptance of Minutes from Previous Meetings

December 16, 2010. The meeting minutes were tabled.

Treasurer's Report (n/a)

The Treasurer's report is not applicable at this meeting.

Public Comments (individuals requesting to be on agenda)

There were no Public Comments.

Correspondence/Communications *Information to act upon*

The Board of Supervisors is in receipt of a letter of resignation from Michelle Benkovich of the Parks and Recreation Board. The Township will get a plaque for Ms. Benkovich for her service to WBT. At the recommendation of the Township Manager Supervisor McCaffrey motioned to accept Ms. Benkovich's resignation, seconded by Vice-Chairman Obernier. Board Members McCaffrey, Obernier, and Lindborg voted aye.

The Township is in receipt of correspondence from Alyson Zarro, Esquire requesting that the Board of Supervisors continue the hearing for the proposed signage amendments until February 3, 2011. Supervisor McCaffrey motioned to continue the hearing until February 3, 2011, seconded by Vice-Chairman Obernier. Board Members McCaffrey, Obernier, and Lindborg voted aye.

The County Department of Emergency Services has requested the review of the most current Emergency Services Municipal Resolution. Manager Rambo is currently reviewing this item and will discuss it at the next BoS meeting.

The Chester County Voter Services has forwarded the Township the list of elected Offices that will need to run in 2011 for completion. Manager Rambo stated he is currently reviewing this and noted for the first time the solicitor will have to sign off on it.

The Board of Supervisors is in receipt of the 2011-2013 Police Contract for signing. Manager Rambo has four original copies of the Police Contract that the Police Association has signed off on. Vice-Chairman Obernier motioned to approve the negotiated Police Contract, seconded by Chairman Lindborg. Board Members Obernier, Lindborg, and McCaffrey voted aye.

Correspondence/Communications *Information to note*

The Township is in receipt of correspondence from Alyson Zarro, Esquire and John E. Good, Esquire with regard to the proposed dedication of the Pulte Homes Parcel F, UPI No. 29-7-53. Manager Rambo explained that parcel F (40 acres), located at Cedar Knoll and Gabel Road, will be dedicated when Phase 1 is recorded.

PADEP has forwarded the Township their review letter of the Township's annual MS4 Report for review. Manager Rambo is currently reviewing the information received to find an appropriate means to address their correspondence.

Mae Marie has forwarded the Township a letter of thanks for the preservation of her property by assisting with the establishment of a conservation easement on her property. Ms. Marie was in attendance to thank the BoS for assisting with the conservation easement.

Reports of Departments, Organizations, Boards and Commissions (n/a)

It was noted that reports were not applicable at this meeting.

Adjournment from Township Meeting time: 7:52 p.m.

Opening of Public Hearing time: 7:52 p.m.

Ordinance No. 2010-01; zoning map change. Kristin Camp, Esquire noted that Mark Huber and Bill Cahan were also in attendance. The consultants that have assisted on this project are D.L. Howell, Civil Engineers; Matt Hannan, Traffic Engineer with traffic planning and design; and Martin Kimmell is the architect. Ms. Camp noted they started this process back in February of 2010, concerning the property of 1403 Horseshoe Pike, located at the intersection of Springton Road and Horseshoe Pike, consisting of 9.4 acres. The property is zoned R-2, previously approved by special exception for a church; Praise Fellowship Church. Ms. Camp's client is seeking to change the zoning to rural mixed use. They have spent several months at the Planning Commission going over the proposal that the Planning Commission perceives to be a benefit to the community; vast improvements to that intersection. What they would propose is a planned mix use development. The Township's rural mixed use zoning regulations already call for accommodation and planned mix use development which has a little residential as well as low scale retail and special services. The Township received a recommendation from the Planning Commission on the rezoning. The Township also received a letter from the County Planning Commission.

If this would be rezoned the next step would be where they get into the nitty-gritty details and submit the application of the proposed plan mixed use development for a rural use mixed district. The BoS would still have control over the matter and would have to approve any development plan; exact details would be proposed. The applicant started out with a two concept plan that has a pharmacy, Wawa, daycare, a bank, and the preservation of a historic structure. Wawa is not interested in this site, but that doesn't mean they won't be in the future. The applicant showed another concept plan that has a regional pharmacy, a bank pad, use of a historic house, and barn that may be used as a daycare facility. The applicant doesn't have any leases signed or any letters of intent signed. These are concepts that the client would market to. That decision would have to be made and presented to the BoS through the conditional use approval process. As part of the conditional use approval, the representations made and the plans shown, along with the traffic information, the applicant would anticipate that the BoS has pretty stringent conditions that would tie the developers to the things that would be presented to the BoS. The BoS will also see to it that the benefits that the applicant said they could bring would actually be achieved.

The third step would be land development that would be further details; storm water management, sewer and water permitting, etc. Ms. Camp noted that representatives are in attendance to answer any questions.

Supervisor McCaffrey agreed with Ms. Camp about the intersection needing improvement but expressed reservations about favoring this because of the loosely put together nature of the plan and doesn't know what the Board is really getting into. The applicant refers to the church; the church by federal and state law cannot be prohibited, it is not something he would lean on to make it sound like it is appropriate to now put commercial stuff. The okay from the County; the County okay's almost anything for Landscape, this doesn't have a lot of weight with it. The change in zoning; the BoS doesn't know what the applicant is going to do to mitigate traffic and the problems with the intersection and all these other issues that come with a more intense commercial development there. Vice-Chairman Obernier noted that normally comes under conditional use. Supervisor McCaffrey stated what he is trying to say is it can be rejected at this point because it does not fit the zoning. Once the zoning is changed they will be committed and the Township will be limited to what they can demand from them. Supervisor McCaffrey expressed he is very nervous about changing the zoning unless there is a definite

gain for the community and is hesitant to do it. Ms. Camp responded by stating they recognized there is an existing problem with that intersection and the proposed development will obviously generate traffic and will have to make improvements to that intersection in order to have any development of this nature, the BoS will accept those conditions that those traffic improvements be made. You have to put a little trust in their presentation to the BoS. Ms. Camp agrees with Supervisor McCaffrey that they will add benefit to the land by changing the zoning. But doesn't agree that by just changing it, that you can put whatever you want there. What the applicant is proposing and the only way that it will work from a financial standpoint, is if they get a planned mixed use development which does require conditional use approval. Conditional use is subject to demonstrating that this planned mixed use doesn't have a negative impact on neighbors. The BoS would be able to put conditions on so that it doesn't have a negative impact and feels the BoS does have more power than if this was just a by right use. The applicant has invested a lot of money, i.e. architectural design, civil engineering, and traffic engineering to show that they thought all of this through. They are not just buying the land to shove it down the BoS's throat. The applicant has really put their own time and effort into making sure that it is going to work for everybody.

Supervisor McCaffrey stated he has seen so many plans with great people behind them get flipped overnight with different people involved; there is nothing that guarantees anything that they have talked about. Ms. Camp agreed at this stage there isn't, but the applicant can't continue to spend money, they have to make some progress to move forward with what they would like to see happen, they can't do this without the rezoning.

Vice-Chairman Obernier expressed that the intersection is a problem, another part of this, in a strange kind of way, if Wawa came in, people in the wider area would enjoy that. People living right around it wouldn't be that happy. A doctor's office and daycare is a low level use, sort of a business area. Supervisor McCaffrey is right; it is the worst intersection in the Township. Having this development is a way to rectify this intersection. Obernier expressed that he is okay with this, with the understanding that they are going to go through a conditional use hearing and at that point, they can more properly set conditions that would give them all a level of comfort about what is to be there.

Chairman Lindborg stated he hears the concerns of Supervisor McCaffrey. The issue to Chairman Lindborg is that this intersection is a major intersection for the Township. It seems they would need to have some type of development to economically justify improvements to the intersection. Not being a traffic engineer or anything, Lindborg didn't believe that the improvements would support a Wawa and that high volume of traffic would be tremendously expensive. More or less what has been presented is more in line with what could potentially work; taking everything in consideration. For those reasons based on what was presented Chairman Lindborg sees a benefit to the community.

Supervisor McCaffrey stated as a representative to the community he feels he needs to have guarantees in place before he can move his ability to prohibit development. By changing the zoning first without the guarantees, the developer is given the right for a commercial type development in that location that was not there and they don't have to come through with everything that McCaffrey wants. McCaffrey stated he has seen conditions taken to court, seen as onerous or overpowering, and thrown out. McCaffrey doesn't trust that process as the only means as a guarantee.

Chairman Lindborg stated he appreciates Supervisor McCaffrey's concerns. In order for the engineering to take place for this intersection and so forth to be presented at a conditional use hearing, there has to be some basis for them being potentially able to do this and not having this tied in with the zoning, they would spend a tremendous amount of money. The conditional use hearing gives the BoS a tremendous amount of influence in how this develops. The CUH process goes through the Planning Commission, Township Engineer; the whole works. Lindborg has a lot of confidence in all these people to have this be a positive impact on the community. There were no further comments.

Ordinance No. 2010-02; amendments to the zoning ordinance sections pertaining to signs. This hearing has been continued until February 3, 2011.

Supervisor McCaffrey motioned to adjourn the Public Hearing at 8:11, seconded by Vice-Chairman Obernier. Board members McCaffrey, Obernier, and Lindborg voted aye.

Adjournment from Public Hearing time: 8:11 p.m.

Re-Opening of Township Meeting time: 8:11 p.m.

Old Business

The Manager is in the process of preparing the Airport Hazard Zoning Overlay District for incorporation into the Township's zoning ordinance as required by PA Act 1984-164. There were no comments.

Additional discussions on Ordinances NO. 2010-01 and 2010-02. There were no comments.

Old Business from the Floor

There was no Old Business from the Floor.

Old Business from the Board

Vice-Chairman Obernier requested an update regarding the lighting issue at the YMCA. Manager Rambo stated he would get an update from Stanley Stubbe.

Vice-Chairman Obernier asked if Dale Barnett had been inspecting the modular's being installed at Friendship Elementary School. Manager Rambo answered yes.

Ordinances and Resolutions

For adoption or continuance for further discussions.

Ordinance No. 2010-01; zoning map change. Chairman Lindborg stated the BoS has held a hearing on this, discussed it, and asked if there was a motion. Vice-Chairman Obernier motioned to adopt Ordinance No. 2010-01. Chairman Lindborg seconded the motion. Board members Obernier and Lindborg voted aye. Supervisor McCaffrey voted nay. Supervisor McCaffrey stated not totally upset with the idea, but doesn't feel the guarantees are there for the community.

Ordinance No. 2010-02; zoning amendments to sign ordinance sections. Vice-Chairman Obernier motioned to table Ordinance No. 2010-02, seconded by Supervisor McCaffrey. Board members Obernier, McCaffrey, and Lindborg voted aye.

New Business

Recommendations of the Township Planning Commission. Manager Rambo noted the Township received a 90 day extension letter from Cycle Max and recommended the BoS accept the letter of extension. They are currently working to get the preliminary plans completed and are also addressing the comments of the Township Engineer, Lighting Consultant, and the Landscape Architect. Supervisor McCaffrey motioned to accept Cycle Max's 90 day letter of extension, but expressed concern about these things being continued and continued; they should be brought back in under whatever new zoning and regulation changes are there with the additional fees for the process. Chairman Lindborg seconded the motion. Board members McCaffrey, Lindborg, and Obernier voted aye.

The other recommendation of the PC was to reject the school project unless a letter of extension is received. The Manager suggested this be addressed at the next BoS meeting because their time clock doesn't expire until the end of January. They are in the process of addressing engineers comments. Vice-Chairman Obernier suggested the school district pay additional to upgrade the traffic signal. The Manager will write a letter requesting they improve the traffic signal.

The Manager is in the process of reviewing the current Metlife Dental Plan rates versus a proposal from United Concordia through Benecon. The Manager noted that there would be a savings in costs and is currently reviewing the list of dentists within the area that accept United Concordia.

New Business from the Floor

There was no New Business from the Floor.

New Business from the Board

There was no new Business from the Board.

Public Comments

There were no Public Comments.

Open Issues before the Township

The Township Engineer and Manager continue their work on updating the Township's Act 537 Plan. There were no comments.

The Township is looking for two volunteers to fill vacancies on the Parks and Recreation Board. There were no comments.

General Obligation Note

Emmaus Bond Pool Adjustable Rate Bond for the Twp. and Public Works Facility/Park Construction: interest rate for the week is 2.23% There were no comments.

Review and Payment of the Bills

Manager Rambo noted the General Fund bills total \$70,479.99 and Solid Waste bills total \$33,534.84. The Manager requested an initial vote on all of the bills except for Cedar Grove Environmental and then a second vote on the Cedar Grove bills. Vice-Chairman Obernier stated he reviewed the bills, found them in order, and motioned payment exempting the Cedar Grove bills, seconded by Chairman Lindborg. Board members Obernier, Lindborg, and McCaffrey voted aye. The Cedar Grove bill totals \$88. Vice-Chairman Obernier then motioned to pay the Cedar Grove bill, seconded by Chairman Lindborg. Board members Obernier and Lindborg voted aye. McCaffrey abstained because he is involved with Cedar Grove Environmental.

Upcoming Meetings/Events

- Elected Auditors meeting, Tuesday, January 4, 2011 at 7:30 p.m.
- Historic Commission meeting, Monday, January 10, 2011 at 7:30 p.m.
- Parks and Recreation Board meeting, Tuesday, January 11, 2011 at 7:00 p.m.
- Municipal Authority organizational and first meeting of 2011, Thursday, January 13, 2011 at 7:30 p.m.
- Board of Supervisors, Thursday, January 20, 2011 at 7:30 p.m.
- Open Space Review Board meeting, Thursday, January 27, 2011 at 7:00 p.m.
- Planning Commission organizational and first meeting of 2011, Thursday, January 27, 2011 at 7:30 p.m.

Adjournment

There being no further business before the Board, Vice-Chairman Obernier motioned to adjourn the meeting at 8:23 p.m., seconded by Supervisor McCaffrey with all board members voting in favor of adjournment. Board members Obernier, McCaffrey, and Lindborg voted aye.

Ronald A. Rambo, Jr.

Township Manager/Secretary/Treasurer