

Meeting Minutes of May 21, 2009
Board of Supervisors

Chairman Obernier called the Board of Supervisors meeting of May 21, 2009 to order at 7:30 p.m. and then led those present in the Pledge of Allegiance. Roll call of the Board of Supervisors (BoS) by Manager Rambo noted Chairman Obernier and Carl S. Lindborg in attendance. Vice-Chairman McCaffrey arrived at 7:35 p.m. Township Manager Ronald A. Rambo, Jr. was also present.

Acceptance of Minutes from Previous Meetings

May 7, 2009. Supervisor Lindborg motioned to table the minutes. Chairman Obernier seconded the motion. Board Members Lindborg and Obernier voted aye.

Treasurer's Report

Manager Rambo presented the Treasurer's Report, balance as of the end of April.

Capital Reserve Fund	\$726,945.96	Operating Reserve Fund	\$190.82
Construction Sweep Fund	\$14,950.06	Police Pension Fund	\$1,154,901.61
Developer Escrow Fund	\$465,284.86	Solid Waste & Recycling Fund	\$132,884.44
General Fund	\$56,123.73	State Liquid Fuel Fund	\$225,292.21
Non-Uniform Pension Fund	\$237,460.11	K-9 Rudy Fund	\$1,295.83
Payroll Fund	4,562.77		

Public Comments (individuals requesting to be on agenda)

Manager Rambo noted that no one requested to be on the agenda.

Correspondence/Communications *Information to act upon*

The Township is in receipt of additional correspondence from the Ashberry Lane Homeowners Association with regard to traffic within their subdivision. Manager Rambo stated the homeowners association provided the Township with a drawing where they are requesting five speed humps be placed within their subdivision to assist with slowing traffic down. The public works department has been in the process of gathering information through traffic counters. Once the information is gathered, the Manager will meet with the Public Works Director and Township Engineer to discuss location and quantity of speed humps. Chairman Obernier requested the Manager contact the president of the homeowners association to let him know that the tube from the traffic counter has been cut, the Township can't get appropriate readings, and it cost money to replace the tubes. Perhaps they may care to replace the tube. It was noted that Vice-Chairman McCaffrey arrived.

The Township is in receipt of correspondence from Kristin Camp, Esquire with regard to the Janiec historic property (Plank's old house & barn). Manager Rambo stated they are requesting that the BoS

consider changing that historic property to rural mixed use as well as change a section of the zoning allowing additional opportunities within the historic resource area. Vice-Chairman McCaffrey suggested for the historic adaptive reuses there should be something based on the type of highway that they have access to. The Manager requested that the BoS review the information for discussion at the next BoS meeting.

Cheryl Thompson of Maplewood Drive has sent correspondence to the Township with regard to the area of Hurley Road and Maplewood Drive. Manager Rambo explained that Ms. Thompson expressed concern about pulling out where there is a hill and a turn with vehicles traveling faster than the posted 35mph. Ms. Thompson is suggesting flashing lights or a stop sign at the intersection. Manager Rambo will do a traffic count to determine speed, talk with the park owner regarding site distance, and talk to the last mobile home owner to see if they can park in a different location. Michelle Benkovich, whose property is located down Hurley, noted within the past six months that speed definitely increased down the hill, especially buses. Chairman Obernier suggested that Ms. Benkovich call Krapf's busses to complain.

The Township Engineer, James W. MacCombie, P.E., has forwarded the Township information with regard to the MS4 Permit requirements that call for the establishment of a Stormwater Management Facilities Operations & Maintenance Agreement. Manager Rambo requested the BoS review the information for discussion at the next meeting.

Correspondence/Communications *Information to note*

The Township is in receipt of correspondence from the County Commissioners awarding the Township a \$400,000.00 grant award under the Township's Round 21 submission toward the purchase of the Henderson Conservation Easements. Manager Rambo stated the Township is currently making quarterly payments to the Henderson's. This will be one lump sum that will go into the Open Space reserve fund. Chairman Obernier suggested a ceremony because the Henderson's are the first open space easement that was purchased. The BoS expressed their gratefulness toward the county as well as Representative Schroder.

The Chester County Finance Department has forwarded the Township information on the establishment of The Chester County Tax Collection District as per Act 32 of 2008. This is to streamline the collection of earned income tax; one entity will do the collection for all municipalities within the county.

The DVRPC has forwarded the Township information to review and comment upon with regard to the US 322 Corridor Study that is underway. Manager Rambo attended two meetings regarding the study. They are suggesting the following changes. The location of Swinehart Road, the addition of turning lanes at Route 82 and Route 322, and the five-way intersection at Springton Road and Route 322. Manager Rambo will send in his comments.

Thomas J. Anderson has forwarded the Township correspondence with regard to the Public Employee Retirement Commission's Act 205 Recovery Program that is being proposed. This is being proposed as a result of the recent downturn in market performance. It talks about different avenues the Township can pursue replacing lost funds.

Reports of Departments: *Month of April unless otherwise noted.*

Police Report presented by Manager Rambo. There were no comments.

Total Hours 1,222.9 Miles Patrolled 7,582

Total Complaints	498	Accidents	8
Warrants	0	Fatalities	0
Domestic	5	Criminal Arrests	5
Non-Traffic Arrests	4	Traffic Arrests	122

Public Works Department Report: Presented by Thomas Eells who also noted work completed for the month. There were no comments.

Total man-hours	798.5	Miles traversed	2011
Total Equipment hours	38	Total fuel gallons	827.58

Buildings/Codes Department Report: Submitted by Dale Barnett and presented by Manager Rambo.

Building Permits issued	67	Permit base fees collected	\$13,750.50
Occupancy fees collected	\$600	U&O permits issued	2
U&O permits issued cursory	37	Contractor Licenses (CL) issued	12
CL Fees collected	\$900	WBT Inspections completed	31
Failed Inspections (FI)	1	Failed Inspections Fees collected	0
		Total fees collected	\$15,250.5

Fire Marshal Report presented by Paul Gainor. There were no comments.

Permit inspections done	36	Campfire/Recreational Permits	31
Specialty Bonfire Permits	0	Agricultural Permits	2
Permits not given	3	Special permits given	0
Special permits not given	0	Other type inspections done	5
Code violations/Complaints	5		

East Brandywine Fire Company Report presented by Mike Conlan.

Fire

Number of calls dispatched into WBT	10	Initial dispatch into WBT	10
Second dispatch into WBT	0	Number of calls scratched	0

Medical Assist

Number of calls dispatched into WBT	10	Initial dispatch into WBT	8
Second dispatch into WBT	-	Number of calls scratched	2

Martin's Corner Fire Company Report: There was no report from Martin's Corner.

Wagontown Fire Company Submitted by Todd Ziegler and presented by Manager Rambo.

Fire

Number of calls dispatched into WBT	4	Initial dispatch into WBT	4
Second dispatch into WBT		Number of calls scratched	0

Medical Assist

Number of calls dispatched into WBT	-	Initial dispatch into WBT	0
Second dispatch into WBT	-	Number of calls scratched	-

Public Comments (individuals requesting to be on agenda)

There were no public comments.

Reports of Organizations, Boards and Commissions

Historic Commission: No one present. Parks and Recreation Board: Michelle Benkovich gave a brief summary of the scheduled summer events, which include movie nights and concerts. Planning Commission (PC): John Cassels noted Brandywine Meadows and Brandywine Manor were tabled. Mosteller minor subdivision: there was discussion about landscaping requirements. A site visit was done and the PC will come back with a recommendation following their next meeting. The PC made a recommendation to the BoS to accept the Cycle Max extension. The Janiec Conditional Use Hearing was also discussed at the PC meeting regarding the commercial layout; the PC is in favor of the latest proposal. Chairman Obernier asked about Cycle Max and the right-of access for the Township and PennDot and them arbitrarily getting rid of that easement. John Cassels stated the PC is looking into that. Open Space Review Board: John Cassels noted they are waiting for signatures to come back from the state to finalize the Icedale Meadows project. The Lindborg properties were discussed regarding the concept of a tract rather than single properties, they found 47 properties that fall into this category, adjacent properties with common ownership. There was a recommendation made to the BoS to move forward with the purchase of the Beaver Creek property using open space funds.

Municipal Authority (MA): Municipal Authority Manager Rambo noted the MA awarded the contract to Joao & Bradley Construction Co., Inc. for the construction of the sewer project. They will be given the right to proceed when the Municipal Authority receives all the necessary documentation. The MA needs to work together with Lyons & Hohl who is doing Bentley's projects. They are on a time frame when they go to the Keegan property, Lyons & Hohl is not to start until the MA is there to start the pump station so they are there the least amount of time. Discussion continued regarding questions and concerns that Mr. Keegan has regarding trees, bridges, etc. Supervisor Lindborg requested that Mr. Keegan attend the next MA meeting to get answers for some of his concerns.

Old Business

The Manager has provided the Codes Officer with comments and other drafts with regard to the establishment of a rental inspection requirement and the resale U & O. Manager Rambo stated it is very confusing the way it is written right now. Chairman Obernier noted he started to review the information.

Bob Fleming of the Valley View Project is in the process of scheduling the work to complete the roadways, basins and landscaping. Manager Rambo stated that after speaking with the Chester County Soil Conservation all that Fleming needs to do is put the basins in according to design plans. The landscaper has not contacted the Manager to let him know when he will begin work. Bob DiLorenzo stated there are no signs of any activity, if the contractor can't provide what he promised then maybe it is time to look for another contractor or sublet it to another contractor. Vice-Chairman McCaffrey would like to get an answer from Mr. Fleming as to when he is going to be doing something and would also like to know what the Township can cite him for when he isn't doing anything by the end of the month. Manager Rambo will contact Mr. Fleming to see where he stands with the current landscaper or if he can get another one.

Old Business from the Floor

Jesse Edwards of Manor Road noted there was a fire on Pine Lane and Lafayette Road and asked why the Road wasn't blocked off at Route 82 and Lafayette Road. Paul Gainor explained these people are all volunteers; it takes a while to set up the roadblocks.

Old Business from the Board

There was no Old Business from the Board.

Ordinances and Resolutions

Resolution #04-2009; McLaughlin/Eck subdivision. Manager Rambo explained this is where Eck's are creating a lot for their daughter and son-in-law to pass on the planning module onto DEP. Chairman Obernier asked about the agreement for the Eck's to pave the common driveway once the property leaves the daughters ownership. Manager Rambo stated that would be on the plans. Supervisor Lindborg motioned to approve Resolution #04-2009. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier voted aye.

New Business

Approval of release request # 1 for the James P. Bryant common driveway construction escrow in the amount of \$4,420.76. Manager Rambo noted this has been reviewed and found satisfactory by the Township Engineer and recommended that the BoS approve the release. Supervisor Lindborg motioned to approve the release based on the recommendation of the Township Manager and Township Engineer. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier voted aye.

Approval of release request #2 in the amount of \$20,000 for the All Souls Cemetery Springhouse Restoration Project. Manager Rambo recommended that this be released conditioned upon the Manager getting verbal okay from the Chairman of the Historical Commission that he has looked at it. John Cassels noted the roofline was different. Manager Rambo explained they are building it according to what was presented to the Historical Commission. Vice-Chairman McCaffrey stated based on the fact that the plans have been reviewed, it has been substantially built to the plan, the work has been checked out by competent authority to be completed moved to approve the release based on the conversation and approval of the Chairman of the Historical Commission with the Manager. Supervisor Lindborg seconded the motion. Board Members McCaffrey, Lindborg, and Obernier voted aye.

The Township will be looking at putting together a Round 22 Grant Application under the County Municipal Grant Program for the establishment of a second Community Park for the soon to be decommissioned Kimberwick spray irrigation system. Manager Rambo stated they are looking to see if there is funding for design.

Tom Maher asked where the new community park would be. Manager Rambo answered the old Kimberwick spray irrigation system; the intent is to have it decommissioned. Vice-Chairman McCaffrey explained the Township inherited the sewer plant; the design criteria would not be approved today. To replace something that is inadequate and improperly constructed will definitely be an enhancement and increase their property value is definitely an accomplishment. Supervisor Lindborg noted if it were not decommissioned, down the road it might cost the homeowners a lot of money for some major work. Chairman Obernier added that it was an effort of the BoS as well as the Municipal Authority Board, Jim MacCombie and Manager Rambo in both of their positions is what made it all work, they deserve a lot of credit for this.

Jay Arnold asked what type of testing is necessary to make sure the property is safe. Vice-Chairman McCaffrey explained when they decommission the site, in the final cleanup of the solids or whatever is there, will not be any problem at all, it is basically a field where they sprayed water on it, the treated effluent had to meet standards that have been monitored regularly.

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 (individuals not requesting to be on the agenda)

Chairman Obernier noted at the last BoS meeting there was a lot of comment about the lack of negotiation and a number of other things between the police union's attorney and the Township's attorney. The BoS voted on directing their solicitor to contact them and talk about things that could be done. Manager Rambo stated that a letter was prepared by Special Council Chris Gerber on behalf of the Township and sent to Tony Busillio, Special Council on behalf of the Police Association. The request to discuss issues and negotiations regarding the Police Association, Busillio said there would be no discussions unless there was a no layoff clause. Manager Rambo said to his knowledge no discussion has occurred because of that requirement. Chairman Obernier stated his speaking with Chris Gerber, he was very clear with him, did Gerber discuss anything else or offer anything else, and did he ask them to talk about anything else. Manager Rambo stated Gerber was asked to begin impact bargaining and have not received any positive response back from Busillio as of yet. The only response was that the Police Association would require a no layoff clause.

Chairman Obernier stated also from last meeting, that Corporal Domblesky had surgery and another officer stepped forward stating that he was vice president and was speaking for the union. There seems to be some confusion about that. It was directed to the attorney asking what was the status of this gentleman, is he representing the union or not. Manager Rambo stated there has been no reply to that request.

Vice-Chairman McCaffrey asked if there has been any change or upturn in the Township's financial status. Manager Rambo answered no; there has not been any upturn since the last BoS meeting of May 7, 2009 when he gave the report of possible year-end deficiencies of \$211,496 if things do not turn around. Vice-Chairman McCaffrey asked if this amount includes the paybacks to the pension plan. Manager Rambo answered that wouldn't go into effect until next year. Vice-Chairman McCaffrey stated in dealing with this particular situation, it appeared that people didn't even want to forgo overtime that they might be able to get through the contract. There has been absolutely no remission of any kind. Everybody has to find some small hit in this so that everybody can stay whole. The BoS has tried suggesting things since early October last year, the only alternative the BoS has that they can do without finding lawsuits and all sorts of other things that will cost additional money in these times when the Township doesn't have the money in the first place. The Special Council said there is absolutely no bargaining available unless the BoS guarantees the members of the association that there will never be a lay off. Vice-Chairman McCaffrey stated that nobody in this room has a job in which they feel they are guaranteed there won't be a layoff. The very last thing he would like to do is eliminate manpower, it isn't just manpower it is human beings with families. This is very stressful and very difficult thing to do. Vice-Chairman McCaffrey doesn't see any alternative since there is no room for bargaining unless he guarantees there will never be a layoff.

Tina Maher asked if there is an opportunity to allow more time where nobody would be laid off so hopefully they could negotiate. Vice-Chairman McCaffrey stated they have done this since October; they approved the budget in October in hopes there could be a turn around or something would happen to make it work out. Vice-Chairman McCaffrey rehashed the events that happened over the past six months.

Tina Maher asked about pension. Manager Rambo explained this year's budget has \$134,000 in it, which is the required MMO for this year. Any funds that the plans have actively lost to date would not have to be put into the budget until next years MMO is done. A guesstimate by the Township's actuary

is saying that the MMO for the police could go up an additional \$100,000 roughly \$240,000 for the pension contribution next year; it depends on how the fund does for the rest of this year. Vice-Chairman McCaffrey stated that it also depends on other things that might go south as far as the economy and the budget here, income, etc. When their plan goes down, it says that the community has to make it up in taxes for them. The total amount collected in real estate taxes is \$445,000 and next year it is estimated that \$244,000 has to go just to the uniform pension plan. This is not the fault of the police, but they do have a responsibility for one of the bigger increased costs in the Township's budget to feel some of the pinch that everybody else is feeling, rather than demand to have a 4% raise this year.

Frank Keegan asked about hearing schedules. Manager Rambo answered that the district judge is working with the Township and Chief to make sure the hearings are scheduled when the police officers are scheduled. The county's schedule can't be controlled.

Mr. Keegan asked who is collecting pension. Manager Rambo answered that the ex chief is currently collecting pension now and two officers are within three years. The BoS noted at one point the police all agreed to sit down to discuss their pensions, plans, and their livelihoods and the President of the Police Association said that the Township has to pay time and a half for the police to come to the meeting. What is the harm in at least sitting down and talking? From the beginning, it was the Board's desire to maintain the 24/7 coverage with our officers. The officers are a very professional excellent group and are great representatives of the Township and for the residents. The Township can't afford it, all the Board was asking for the past nine months was to sit down and talk without preconditions. Dialog continued.

Ron Rambo Sr. was asked about the order of layoffs, some officers are close to retirement to receive pension. Supervisor Lindborg stated according to the Police Tenure Act, if people are going to be furloughed, the last ones hired are the first ones to be furloughed. Vice-Chairman McCaffrey explained the Township is not allowed to calculate what funds might be necessary based on who might leave. In the past maybe people miscalculated and were left with insufficient funds for their pensions. Now the state dictates what the minimum municipal obligation (MMO) is to maintain the pension fund at the level the state requires. Discussion continued.

Joan Thompson asked what percentage of the Township's revenue are real estate taxes. Manager Rambo stated the budget is 2.9 million; it would be roughly 2%. Discussion continued regarding budgets.

A resident asked about the new maintenance building across the road, what its purpose is and how much it costs per month. Manager Rambo answered the building costs \$5,700 per month, the money was borrowed for that building three years ago; it was anticipated. That was the second phase of three phases. The majority of the building is public works. Two bays of the building are for a future substation. Once the development starts and plans are signed; there are developers that have to kick in funds toward emergency equipment for that building. Supervisor Lindborg stated that building was budgeted for years; the money was borrowed with no tax increase. What has happened today was never anticipated. In his lifetime, he has never seen anything like this. That building was planned for, houses the Township's equipment, and gives years of longevity for the equipment. The building is only heated to 40 degrees. Part of it is funded for and will be a benefit with a substation with equipment that is going to be paid for by developers.

Ted Waltz asked about the capital reserve fund. Manager Rambo explained the capital reserve fund has \$598,292 of open space money. The open space fund and capital reserve is one fund; Berkheimer puts all the money in there. Whenever the Township expends the funds, the general fund is a pass-through to write the checks.

Manager Rambo reiterated from the last BoS meeting, that the Township submitted two federal grant applications for the Cops Hiring Recovery program. Two of the grants are to save positions, however, the Township was informed that they will be notified anytime between now and September 30, 2009 whether the Township will be awarded a grant. The grant would be good for three years, pay benefits, and the starting base salary of an officer.

Vice-Chairman McCaffrey reiterated the last thing the Board wanted to do was furlough police officers, the Board put it off for almost nine months in the hopes to negotiate something. We suggested to cut out all of the finer details and kept the man on his job and hope the grants come through, and everybody live lean for a while. No suggestion was acceptable outside of guaranteeing no layoffs; this can't be guaranteed in good faith.

Chairman Obernier stated that both Supervisor Lindborg and Vice-Chairman McCaffrey made good points. For Chairman Obernier personally, the hard part is that the BoS is dealing with people they know. Because of the rules, they have to start with the last hired, the police don't deserve this, it will be horrible for them. There is no place for them to go to work as a police officer, perhaps Coatesville. The police department he has known for twenty years, they have been like family. The BoS can't even talk to them; forget about negotiating. It has been a genuine frustration for all three Supervisors. Chairman Obernier stated he wished they weren't doing this and that they could have started talking last September and they wouldn't be in a corner right now.

Vice-Chairman McCaffrey moved that the West Brandywine Township BoS authorize the furlough of two full-time police officers and all of the part-time officers who were hired after the furloughed full-time officers in accordance with the Police Tenure Act, which furloughs will become effective on June 13, 2009 and further authorize the Township's special council to communicate with the attorney for the WBT Police Association for the purpose of engaging in impact bargaining in accordance with the Pennsylvania Labor Law. Supervisor Lindborg seconded the motion. Board Members McCaffrey, Lindborg and Obernier voted aye. The motioned carried. Chairman Obernier asked the public if there was anything they would care to talk about. There were no comments.

Open Issues Before the Township

The Manager and Township Engineer continue in their efforts of reviewing and updating the Township's Act 537 Plan. There were no comments.

The Township continues to seek volunteers to serve on the Historic Commission. There were no comments.

The Chief and Manager are finalizing the Stopping, Standing and Parking Ordinance and the Oversized/Overweight Vehicles on Township Roads Ordinance for advertisement and adoption. There were no comments.

General Obligation Note (Adjustable Rate Bond for the Facility/Park Construction) Interest rate for the week (3.72%). There were no comments.

Vice-Chairman McCaffrey requested that the BoS ask the Manager to remain attentive, open, and ready to speak with anybody, e.g. Tony Basillo of the Police Association, to work something else out other than what the BoS had to do tonight, to contact the BoS as soon as he hears something. Chairman Obernier absolutely agreed and didn't know if it would save a furlough but would like to sit down and figure something out. Vice-Chairman McCaffrey stated they have until June 13, 2009.

Review and Payment of the bills.

Manager Rambo stated the general fund bills total \$19,346.59 and liquid fuels bills total \$3,958.47. Supervisor Lindborg motioned to pay the bills. Supervisor Lindborg noted the amount of money for reassessment refunds and motioned to pay the bills. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier voted aye.

Upcoming Meetings/Events

- Open Space Review Board meeting, Thursday, May 28, 2009 at 6:45 p.m.
- Planning Commission meeting, Thursday, May 28, 2009 at 7:30 p.m.
- Board of Supervisors meeting, Thursday, June 4, 2009 at 7:30 p.m.
- Historic Commission meeting, Monday, June 8, 2009 at 7:30 p.m.
- Parks and Recreation Board meeting, Tuesday, June 9, 2009 at 7:00 p.m.
- Municipal Authority meeting, Thursday, June 11, 2009 at 7:30 p.m.

Adjournment

There being no further business before the Board, Supervisor Lindborg motioned to adjourn the meeting at 9:50 p.m. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier voted aye in favor of adjournment.

Ronald A. Rambo, Jr.
Township Manager/Secretary/Treasurer