

**Meeting Minutes of January 3, 2005**  
**Board of Supervisors**

Chairman Lindborg called the Board of Supervisors Meeting of January 3, 2005 to order at 7:14 p.m. and then led those present in the Pledge of Allegiance. Roll call of the Board of Supervisors (BoS) by the Township Manager noted Chairman Carl S. Lindborg, Vice-Chairman Josef G. Obernier, Sr., and Supervisor Thomas J. McCaffrey in attendance. The following individuals were present to represent the various departments: Ronald A. Rambo, Jr., Township Manager; Dale Barnett, Codes/Zoning Officer; and Thomas Eells, Director of Public Works.

**Acceptance of Minutes from Previous Meetings**

Vice-Chairman Obernier motioned to approve the minutes of December 2, 2004 and December 16, 2004. Chairman Lindborg seconded the motion. Board Members Obernier, Lindborg, and McCaffrey voted aye.

**Public Comments** *Individuals requesting to be on the agenda*

No one requested to be on the agenda.

**Correspondence/Communications** *Information to Act Upon*

The Chester County SPCA has forwarded the Township a copy of the 2005 Boarding and Animal Protective Services Contracts for review and consideration. Manager Rambo noted that the appointment of the 2005 Boarding and Animal Protective Services has been tabled and stated that he has not had any input from the Board. Vice-Chairman Obernier felt it was inappropriate to appoint the Chester County SPCA when they presented the Township with three contracts, in the past there was only one contract and asked if the Township solicitor looked at the verbiage on the two new agreements (contract #1 and contract #2). There appear to be new and different charges and is not sure if provisions were made for that in the 2005 budget. Vice-Chairman Obernier stated he has about fifty unanswered questions and noted that Chief Werner also has some questions. Vice-Chairman Obernier will email the questions to the Manager.

Supervisor McCaffrey noted that the Harrisburg branch of the SPCA will no longer accept animals from residents if their municipality is not participating, the resident would then become responsible. With the absence of a municipal contract the SPCA will bill the person that called them. Vice-Chairman Obernier asked if the County provides funding to the SPCA. Supervisor McCaffrey stated that he didn't know, but feels that there is some urgency to find a solution to this, so that people don't get stuck with a bill. Chairman Lindborg would like to get the questions answered and resolve this at the next meeting. Vice-Chairman Obernier suggested the SPCA be

requested to attend the next BoS meeting to answer questions. Chairman Lindborg would like to see the list of questions and feels the Manager would be able to get them answered.

The Township is in receipt of correspondence from James W. MacCombie, P.E. with regard to the waiver requests for the Susan B. Maes Minor Subdivision Plan. The waiver requests were tabled at Manager Rambo's recommendation.

The Township is in receipt of letters of extension from Bentley Communities for the rendering of a decision on their Preliminary Subdivision Plans for Swinehart Realty Associates, L.P. and Culbertson Realty Associates, L.P. until Friday, February 4, 2005. Manager Rambo recommended that the Board accept the letters of extension. Supervisor McCaffrey did not favor giving the extensions, especially for the Swinehart Realty. He voted against the subdivisions and some of these developments, especially the apartment complex, are not profitable to be built today, and would not be allowed to be built with our current regulations. Giving constant extensions on some of them makes it easier to build them in the future. Manager Rambo explained that the two extensions they are asking for right now, the plans are at Jim MacCombie's office waiting to be reviewed once again, they are addressing his prior comments. They are granting the Township an extension until February 4, 2005 to review those two plans. Supervisor McCaffrey motioned to grant the extension for Culbertson Realty until February 4, 2005. Vice-Chairman Obernier seconded the motion. Board Members McCaffrey, Obernier, and Lindborg voted aye. Vice-Chairman Obernier motioned to accept the letter of extension from Bentley for Swinehart Realty until February 4, 2005. Board Members Lindborg and Obernier voted aye. Supervisor McCaffrey was opposed.

Bentley Communities has forwarded a letter to the Township requesting an extension of time in which to submit Preliminary Subdivision and Land Development Plans for the Beaver Creek Apartments and Commercial Development to be located on Horseshoe Pike. Manager Rambo noted they currently have an extension until June 2005, and are asking for an extension until June 2006, they are requesting the extension at this point because it will take them that amount of time to get the plans together for submission. Both Chairman Lindborg and Vice-Chairman Obernier felt that was part of the agreement and are not interested in extending the period of time, they agreed to extra time initially. Supervisor McCaffrey also agreed and stated they all dislike those apartments if they would like to work with the Township on that, they could have apartments there in the future, then we can give them an extension for something that is more appropriate for the site and would just presume not give them an extension. Vice-Chairman Obernier motioned to reject an extension of time. Supervisor McCaffrey seconded the motion. Board Members Obernier, McCaffrey, and Lindborg voted aye.

Genterra Corporation has forwarded the Township a letter of extension for the rendering of a decision on the Susan B. Maes 2-Lot Minor Subdivision Plan. Manager Rambo recommended accepting the extension. Supervisor McCaffrey motioned to accept the extension. Vice-Chairman Obernier seconded the motion. Board Members McCaffrey, Obernier, and Lindborg voted aye.

The Township is in receipt of the 2005 ACT 101 Report Forms for Recycled Materials from the Chester County Health Department. Manager Rambo noted the forms would be completed and forwarded on to the County.

The Elliot Building Group has forwarded the Township a sixty-day letter of extension until March 26, 2005, for the rendering of a decision on the Ridings of Hibernia Final Subdivision Plan. At the Manager's recommendation, Supervisor McCaffrey motioned to accept the extension. Vice-Chairman Obernier seconded the motion. Board Members McCaffrey, Obernier, and Lindborg voted aye.

**Correspondence/Communications** *Information to Note*

The Township has received correspondence from Upper Dublin Township with regard to Public Fire Hydrant Charges. Manager Rambo noted that he would contact them, the Township entered into a case with them with regards to the hydrant and their associated costs. Vice-Chairman Obernier stated that he didn't recall agreeing to pay legal fees. Supervisor McCaffrey recalled the conversation that led up to it, the fees for the hydrants arbitrarily raised all the time, there is no notation of what services are ever provided or why there is a need for the raise, they are just simply allowed to do it under the law. Vice-Chairman Obernier stated he didn't disagree with those thoughts, but that he didn't remember agreeing to pay for part of their legal fees. Supervisor McCaffrey stated they were a part of the whole action; they are not just paying their legal fees. Chairman Lindborg stated he vaguely remembered this that he may not have been at the meeting when it was discussed.

Manager Rambo stated they currently pay \$303 per year per hydrant; they were trying to get it reduced by twenty-five percent. However, that didn't go through, the PUC amount was left the same at \$303, the Township joined in with Upper Dublin and other municipalities based on the number of hydrants we had, it was discussed at a public meeting. Upper Dublin is asking the Township for our share of the legal fees. The Manager will look up the amount, which is based on the number of hydrants and also let Vice-Chairman Obernier know which public meeting this was discussed at.

Vice-Chairman Obernier didn't remember voting for it. Supervisor McCaffrey recalls that in the discussion the Board thought it was a gamble, because the amount they were asking for the attorney was what they were asking as an increase. Manager Rambo noted the attorney had asked for \$34,000 but settled for \$20,000. Vice-Chairman Obernier recalled thinking that if they are going to go to court, then whatever pans out of it will apply to everybody and not just a few townships. Supervisor McCaffrey recalled they said they would go to court if there were some others that would help defray the costs, otherwise they wouldn't bother. Manager Rambo will pull out the information from the previous discussion and forward it to Vice-Chairman Obernier.

The Township is in receipt of correspondence from the Chester County Health Department with regard to its Septage Management Electronic Database. Manager Rambo noted the County Health Department is going to keep track of solid waste haulers within the municipalities.

The Chester County Planning Commission has forwarded the Township an inventory update request of municipal owned recreational parks and open space. This will be completed and sent to the County Planning Commission.

Caln Township has forwarded the Township a copy of its proposed Zoning Map for review. Manager Rambo noted this is a courtesy review.

The Township is in receipt of an email from Marie Pantalone dated December 17, 2004 with regard to “off -site” versus “on- site” improvement clarification. Manager Rambo read Ms. Pantalone’s letter out loud and noted there is a gray area there. The Manager is waiting to hear from John Good with his opinion.

Supervisor McCaffrey expressed concern with regards to the Septage Management from the County Health Department’s letter dated November 23, 2004. He was upset over the concept that they permit, design, and tell everybody how to put their septic system into the ground, the Township has no say over them, and then they want the Township to monitor the way they are working. They have control over all the aspects of this except the cost and enforcement. Manager Rambo stated they are asking the Township to put “septic tank maintenance” in the newsletter and also consider developing an ordinance for record keeping for the pumping and cleaning out of the systems. Manager Rambo read the County’s letter out loud. Manager Rambo noted the Township has not adopted a Septic Management Plan yet, that this information that is being collected by the County is going to be available if and when they do. There is DEP money available if they adopt this for the oversight of this. Chairman Lindborg asked if there is DEP money available to the homeowners if there is a problem with their system and they are being forced to remedy it. Manager Rambo believed there would be loans available. Supervisor McCaffrey felt that the County is forcing them into it and wants to resist it until someone else takes on the financial part of it and the irritation of all of the Township’s residents. Both Chairman Lindborg and Vice-Chairman Obernier agreed with Supervisor McCaffrey.

### **Old Business**

The Board of Supervisors is searching for volunteers to serve on the Building Appeals Board and Historic Commission. An ad with the criteria for Building Appeals Board applicants will be placed on the Township’s website. An elected official cannot be appointed to the Building Appeals Board.

The Township’s Building Inspector/Codes Officer has finalized his review of the recently adopted building code bill and has presented his recommendations to the BoS for comments. Manager Rambo noted these pertain to amendments based on the building part of the statewide code. Mr. Barnett explained what he uses as criteria to come up with his recommendations. The Board will look at his recommendations and then make a decision. The Board would like to get a copy of the Use and Occupancy form.

The Manager has forwarded the proposed zoning amendments with regard to fences and signage to the Chester County Planning Commission and WBT Planning Commission for review and comments (Ordinance 05-01). There were no comments.

The Township will be accepting bids for the sale of surplus equipment on Thursday, January 20, 2005. The list is being compiled.

### **Old Business from the Floor**

There was no Old Business from the Floor.

### **Old Business from the Board**

Vice-Chairman Obernier asked what the Township is doing to remedy the fact that the lighting on the Jehovah’s Witnesses building does not conform. As they are, it violates the ordinance, it isn’t an issue of luminance, there is no horizontal lighting in our ordinance. They have halogen lights

there that you can see for a mile, they are not directional lights that can be altered. The lighting fixture under the canopy violates the ordinance. Vice-Chairman Obernier suggested that Dale look into this issue and report back at the next BoS meeting. Supervisor McCaffrey stated he would like to be respectful of the people, noting they went through some real turmoil. Vice-Chairman Obernier stated if you recall on their final plan, right before the Board voted on it, they still after a year and a half had not changed the lighting plan that they had depicted on the plan. Vice-Chairman Obernier said to the gentleman that represented the Jehovah Witness Group, it is Obernier's understanding that this is not going to violate the ordinance and the gentleman answered that absolutely none of the fixtures would violate the ordinance. Vice-Chairman Obernier's feels that they do violate the ordinance in his interpretation of it.

Vice-Chairman Obernier also noted another item that needs to be addressed that he had previously mentioned with regards to a light that needs to be pointed down a bit at Gentile's new dental office. Dale Barnett noted he went to the site and thought the lighting at the garage was mounted horizontally to render the fixture as cutoff light.

Vice-Chairman Obernier noted that on the first house on the right on Justin Lane they have a spotlight that is pointing out on the street instead of pointing it down on the driveway. Chairman Lindborg noted his preference was unless it is a huge problem he would rather not be involved since it is residential. Vice-Chairman Obernier stated he was okay to be flexible on that.

Vice-Chairman Obernier noted that the construction signs for Justin Lane are in disrepair and would like to ask the developer to fix the signs.

Vice-Chairman Obernier asked if Comcast had responded to requests made by the Township yet. Manager Rambo read out loud the email he received from Todd Eachus dated December 29, 2004. Vice-Chairman Obernier explained that Comcast still has not addressed the three revenue line items. Comcast sent a letter stating that the Township will get another \$1,600 a month from one of the line items without an explanation of the other three line items, also, there are an additional 350 people that the Township gave them, and they have acknowledged they will not go back in time and pay the money that was due to the Township, even if they don't get the additional names in that were given to them. Vice-Chairman Obernier would like to bring this to an end. Manager Rambo will request the presence of Mr. Eachus at a BoS meeting.

Vice-Chairman Obernier questioned if the 2005 budget includes any revenue from the Municipal Services Tax that the Board is thinking about passing. Manager Rambo stated that it includes a portion of it. Vice-Chairman Obernier asked it is anticipated where the additional money will go. Manager Rambo stated that it will be discussed at the Hearing on Friday. Chairman Lindborg expressed his thoughts that with the increasing costs of fuel, materials, equipment, and personnel that this could certainly go in areas where they are stretched to their limits, because of the increasing costs and no tax increase in any other areas. He feels that this increase is very justifiable because the roads are used and must be maintained. It is expected that this would bring in an additional \$60,000 - \$80,000; the people would have to meet the minimum income limit of \$12,000 per year. The \$13 would be payable quarterly.

Vice-Chairman Obernier asked if the estimated cost of \$7,000 that was given to the BoS to put electric in the police parking lot was added into the 2005 budget. Manager Rambo stated there were no comments from the Board and it was not put into the budget.

Vice-Chairman Obernier asked the status of the School House Lane, four-acre piece of property that the Township was asked to purchase. Manager Rambo explained that the Guererra's property is behind two homes on School House Lane, the Township has a grant from the County but has never received a response from Guererra's as to settlement. The four acres that Vice-Chairman Obernier is inquiring about is from the gentlemen that used to own the bungalow, which was bought by Steve Cushman, he couldn't do anything with it and it went back on the market for absolute auction. Numerous people called the Township to see if it could be subdivided because it has a pipeline easement on it, one person has bought it. The Township was never looking at this piece of property, the Manager wrote to John Good to see if the Township would be permitted with Open Space Funds to go to an auction and purchase it.

As far as the Hills Over Pratts Dam, we were offered to purchase two properties that abut six acres that the Township owns. They will be appraised to see if they are asking a fair price, they would then write a letter of interest stating that the purchase is conditioned upon getting half in grant money. Manager Rambo will follow-up with a letter to Guererra for the purchase of his property or if Mr. Guererra doesn't respond he can approach obtaining the land in a different fashion.

Vice-Chairman Obernier would like to update Resolution #22-93.

Vice-Chairman Obernier noted he would be attending the CASD meeting regarding TIF that would be presented tomorrow night and the importance of attending the meeting. Chairman Lindborg was concerned about the residential going in there and the burden it will place on the Township's residents to educate those children. Supervisor McCaffrey suggested they ask John Good what recourse the Township may have over that. Chairman Lindborg noted that Cynthia Quinn said that the uses in those areas have to be approved by the School Board, County Commissioners, and the state and feels the Township needs to be involved in all three areas.

Vice-Chairman Obernier noted questions that they should ask; he would like to see a list of what actual infrastructure is needed, the cost of each item of that infrastructure, did this infrastructure previously exist, deteriorate, or not ever exist. Why aren't those developers providing for the infrastructure there as we require here, that the developers here provide that infrastructure. Supervisor McCaffrey stated that is because it is a place that nobody wants to develop and they are trying to make it attractive to develop there, so they are trying to do away with all the expenses and make it more profitable to put something there. The trouble is that Coatesville has taken an attitude in recent years of Coatesville first.

Chairman Lindborg stated that the real issue is the residential development and the impact on the residents of West Brandywine Township and surrounding municipalities. Supervisor McCaffrey stated that if you listen to any of the rhetoric for the past ten years, they said they need commercial base, commercial base comes along in Coatesville and they are giving it a free ride so it won't be commercial base. Vice-Chairman Obernier stated that if Coatesville feels they need to provide and pay for that infrastructure, they got \$45,000,000 from the sale of CCA and just received another \$7,000,000 from the state. Why can't Coatesville take that \$52,000,000 and do it themselves, why do they have to look at the surrounding Township's and the people living in those Townships through the School District to pay for that. The School District has a great amount of debt right now, plus the debt for the master facilities plan, what is that amount of debt that the City of

Coatesville has? Where is the balance there on a scale? It seems that the school district is far more in debt and doesn't have the resources that Coatesville has.

Vice-Chairman Obernier requested that the Manager look into establishing a post office in West Brandywine Township and would like to add this to the agenda under Open Issues. Manager Rambo stated he would write a letter, but doesn't want to add it to Open Issues.

Vice-Chairman Obernier would like the Board to consider placing a plaque in the facility commemorating all of the Eagle Scouts from the Township's two Boy Scout troops. Both Chairman Lindborg and Supervisor McCaffrey felt that there are many accomplishments made by members of other groups of our community too and does not feel it would be appropriate to single out just the Boy Scouts. Vice-Chairman Obernier said it is not to the exclusion of any other group; it is something that he has an interest in, just as Carl and Tom may have an interest in 4-H.

### **Ordinances and Resolutions**

There were none.

### **New Business**

The Township is meeting with Honey Brook Township with regard to providing police services. Manager Rambo noted Honey Brook has requested that the Manager provide them with a breakdown of the amount that the Township would charge for an officer. The Manager will keep the Police Association updated.

The Township will hold a public hearing on Friday, January 7, 2005 at 8:00 a.m. to consider amending the current Occupational Privilege Tax to comply with ACT 222 of 2004 and rename it the Emergency and Municipal Services Tax and to establish the tax rate at \$52.00 (\$47 Township, \$5 CASD) under Ordinance 05-02.

The Manager is waiting to hear from Ms. Quinn, President of the CASD Board, for joint meeting dates with the Township Board of Supervisors. Chairman Lindborg stated that it is an important opportunity for people to ask questions and get answers in a friendly environment. The BoS would like an invitation extended to all the School Board Members.

The Township's first monthly yard waste drop-off will take place this Saturday, January 8, 2005 from 8:00 a.m. to 1:00 p.m. The residents will be able to bring branches and yard waste to be chipped.

Recommendations of the Township Planning Commission. Manager Rambo and John Cassels noted the recommendations of the Planning Commission dated January 3, 2005. The Planning Commission has taken the position that it is not their position to advise people of their time clocks. The McAndrew-DeHaven final plan approval was tabled, the Township is waiting for seven complete sets of plans.

The Planning Commission's reorganization meeting is Thursday, January 27, 2005 at 7:00 p.m. Bob Schini will most likely be the next Chairperson.

Township representatives will be meeting with East Brandywine Township representatives and East Brandywine Fire Company representatives on Friday, January 7, 2005 at 8:30 a.m.

### **New Business from the Floor**

Jesse Edwards asked if the church is going to build a rectory. Manager Rambo noted there is a place on their parcel where they could put one, but they haven't done anything yet.

Karen Vollemecke noted concern about stray dogs roaming around on her property. Supervisor McCaffrey suggested that Manager Rambo contact the Department of Agriculture for the state dog warden and what could be done. Ms. Vollemecke will contact Chief Werner with regard to the dog issue.

### **New Business from the Board**

Chairman Lindborg stated there is a site distance problem with a residence on Reason Lane that access Baker Road from their lawn. They pull out on a regular basis and there is no site distance, they pulled out on his wife, himself and probably on other people. He noted that in the past Dale Barnett has written a letter saying that is illegal and to stop. Chairman Lindborg asked what could be done for this safety issue. They have a driveway on Reason Lane and if they want to have a driveway on Baker Road then they need a driveway permit.

Dale Barnett felt that they wouldn't be successful in citing them. Vice-Chairman Obernier suggested putting up one segment of guardrails within the road right-of-way there. He believes they have the authority and materials to do that. Tom Eells stated he didn't know if that would be the proper use of them to restrict access. Vice-Chairman Obernier stated they are not restricting access, it is an illegal access; they are putting the barrier there because Chairman Lindborg's wife and Vice-Chairman Obernier have almost been hit by a car pulling out. If they can't do something legally, then this is something they can do. Chairman Lindborg suggested sending them a letter that states the regulations that a driveway permit is needed for accessing Baker Road, otherwise stop using it, and see what happens. This is an issue.

Vice-Chairman Obernier stated that it would turn into an enforcement thing. Supervisor McCaffrey stated if someone gets hit, then they will go the court over it. Vice-Chairman Obernier asked what the harm would be in putting up the one barrier there. Before placing a guardrail there, Manager Rambo would like to discuss it with both Tom Eells and Dale Barnett. He was concerned about creating a site issue by putting barriers in the right-of-way and impeding site distance. Vice-Chairman Obernier suggested that you would put the barrier low to the ground, understanding that the barrier would be parallel to your site distance. Manager Rambo noted there are state regulations that are required for guide rail. Vice-Chairman Obernier stated that he is talking about using a guide rail, not necessarily using guardrails on a state highway. Manager Rambo stated that would be improper use of guide rail, and didn't recommend that. The Manager stated they would work on the issue, by first sending letters, but to utilize the guardrail would create problems, because you are looking at installation requirements at specific Penn Dot heights, which could impede site distance at the intersection, especially when vegetation is on the tree. Chairman Lindborg stated that you could cut the vegetation and wasn't in full agreement with the Manager, but would like letters sent out and get the issue resolved. The Board requested that this be added to Open Issues on the agenda.

### **Public Comments** (individuals not requesting to be on the agenda)

There were no Public Comments.

### **Open Issues Before the Township**

Cable Franchise was discussed earlier in the meeting.

### **General Obligation Note (Adjustable Rate Bond for the Facility/Park Construction)**

The interest rate for the week was 2.34%.

### **Review and Payment of the bills**

There were no bills presented for payment.

### **Upcoming Meetings/Events**

- Elected Board of Auditors re-organizational meeting, Tuesday, January 4, 2005 at 7:00 p.m.
- Historic Commission meeting, Monday, January 10, 2005 at 7:30 p.m.
- Parks and Recreation Board meeting, Tuesday, January 11, 2005 at 7:30 p.m.
- WBT Municipal Authority re-organizational meeting, Thursday, January 13, 2005 at 7:00 p.m.
- WBT Municipal Authority meeting, Thursday, January 13, 2005 immediately after re-organizational meeting.
- Board of Supervisors meeting, Thursday, January 20, 2005 at 7:30 p.m.
- WBT Planning Commission re-organizational meeting, Thursday, January 27, 2005 at 7:00 p.m.
- WBT Planning Commission meeting, Thursday, January 27, 2005, immediately after re-organizational meeting.

Supervisor McCaffrey suggested holding an Agricultural Security Area Committee Meeting.

### **Adjournment**

With no other business to discuss, Vice-Chairman Obernier motioned to adjourn the meeting at 9:02 p.m. Supervisor McCaffrey seconded the motion. Board Members Obernier, McCaffrey and Lindborg voted aye in favor of adjournment.

Ronald A. Rambo, Jr.

Township Manager/Secretary/Treasurer