

Meeting Minutes of June 1, 2006
Board of Supervisors

Chairman Obernier called the Board of Supervisors Meeting of June 1, 2006 to order at 7:30 p.m. Roll call of the Board of Supervisors (BoS) by Ronald A. Rambo, Jr. noted Chairman Josef G. Obernier, Sr., and Supervisor Carl S. Lindborg in attendance. Vice-Chairman Thomas J. McCaffrey, Jr. arrived at 7:35 p.m. The following individuals were present to represent the various departments: Ronald A. Rambo, Jr., Township Manager; Sgt. John Coldren, Police Department and Thomas Eells, Director of Public Works. Chief Walter Werner is on vacation.

Acceptance of Minutes from Previous Meetings

April 6, 2006, April 20, 2006, May 4, 2006 and May 18, 2006. Supervisor Lindborg motioned to approve the meeting minutes of April 6, 2006 and April 20, 2006. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey and Obernier voted aye. The minutes of May 4, 2006 and May 18, 2006 were tabled.

Public Comments *Those individuals requesting to be on the agenda*

There were no Public Comments.

Correspondence/Communications *Information to act upon*

The Township is in receipt of a letter of extension for the rendering of a decision on the Final Plan for the Culbertson Realty Associates, LP Project from Scott Emerson of Bentley Communities until Thursday, August 3, 2006. Supervisor Lindborg motioned to accept Scott Emerson's letter of extension. Chairman Obernier seconded the motion. Board Members Lindborg and Obernier voted aye.

Stan Stubbe, the Township's lighting consultant, has provided some dates in which to get together with the Township to look at lighting concerns throughout the Township. Mr. Stubbe can meet any Thursday after the BoS meetings. Manager Rambo will contact Mr. Stubbe for a June 15th meeting.

The Township is in receipt of a letter of extension from Theresa R. Lemley, Esquire, on behalf of Pulte Homes, for the rendering of an Opinion & Order on their CUH Application until Thursday, July 6, 2006. Supervisor Lindborg motioned to accept Ms. Lemely's letter of extension. Chairman Obernier seconded the motion. Board Members Lindborg and Obernier voted aye.

Correspondence/Communications *Information to Note*

John E. Good, Esquire has forwarded the Township his thoughts with regard to FEMA and NIMS. Chairman Obernier summarized John Good's letter, noting that training is not required, but if the Township doesn't do it, it may exclude the Township from being able to get emergency funds in the future.

The Township has received correspondence from PEMA with regard to NIMS and the need to sign its INMS FY06 Certification Form by September 1, 2006. This is currently under review by Manager Rambo.

The Chester County Planning Commission has forwarded a review on revised Ordinance NO. 06-08 with regard to Health/Exercise/Racquet Sports Clubs. The BoS is to review the letter before the next meeting. At this time in the meeting, Chairman Obernier noted that Vice-Chairman McCaffrey has arrived.

The Chester County Office of the Clerk of Courts has forward the Township the Tax Collector's Bond Form/Oath of Office information for completion. Manager Rambo will have the appropriate forms filled out.

Dr. Gordon Eck has forwarded the Township a letter with regard to the proposed subdivision of George Harlan. Manager Rambo asked that the BoS review the letter and give him their comments.

William J. Burke, III has forwarded the Township a resolution to consider with regard to the sharing of information as it pertains to the Chester County SPCA. The BoS is to review the resolution and give Manager Rambo their comments.

At this time in the meeting the Board moved back to address the Approval of the Meeting Minutes.

Adjournment from Township Meeting 7:39 p.m.

Opening of Public Hearing 7:39 p.m.

Ordinance NO. 06-07, proposed Noise Ordinance. Proposed Ordinance NO. 06-07 was duly advertised. Chairman Obernier recalled at the last meeting, he favored having a slight change in decibels, but was okay to let that go. Vice-Chairman McCaffrey noted objection to Section 4B. Manager Rambo explained that the initial presentation did not refer to any decibel level at all. It only referred to if you heard noise in the house; there were no levels to base anything on. Manager Rambo put more meaningful information in there, where you have to refer to decibel levels, utilizing the same as it were in Section 4A. For instance, if you were inside, you would be using the same decibel level as you would be using outside. Vice-Chairman McCaffrey asked if they were already not allowed if you could hear them outside at those levels. Manager Rambo said correct, but the person complaining was inside and now you have the means to do it inside the house also.

Supervisor Lindborg felt that they should leave Section 4B in, if there are problems with it, the BoS has his word that they would immediately revisit it. Chairman Obernier stated that he was okay to leave Section 4B in or take it out. Vice-Chairman McCaffrey stated as long it would always be the same whoever visits it. Manager Rambo stated the intent was to create ordinance language that would utilize a decibel meter.

A resident asked if noise was a Township wide problem. Manager Rambo stated there have been complaints throughout the entire Township on different matters, e.g. stereos, loud mufflers, boom boxes, etc. The resident asked if this ordinance was going to eliminate activities such as birthday parties, etc. Manager Rambo answered it won't eliminate the activities; just be courteous to your neighbors. Margie Scott noted she was in favor of the ordinance. Vice-Chairman McCaffrey stated that the police and code officer are not going to be circulating about the Township, listening for noise; it is going to be when somebody complains. If you have a party planned, if you have an outdoor band, and you clear it with your neighbor, then the neighbor won't call anybody and nobody will care. The resident asked who

would be allowed to read the decibel meter. Manager Rambo answered the code officer, police officer, or he would be able to read the meter.

Chairman Obernier explained that the meter is simple to read. It is his understanding that when a police officer gets called, he will read the decibel level and let you know that you have exceeded the limit and allow you to turn the level of noise down until it reaches the legal limit. The idea is not to run out and give tickets.

Jeff Chalfant noted that this is a living document that can be revisited. Vice-Chairman McCaffrey feels that not everybody is going to be happy with this ordinance. You cannot legislate courtesy with your neighbor. An example would be if your neighbor is giving a wedding reception for their only daughter and the noise is too loud, you would cut them some slack. On the other hand, if you have a neighbor that has a party every night of the week for the month of July, you would think that that person having the party would have consideration for their neighbor, you can't legislate that. Supervisor Lindborg agreed with Vice-Chairman McCaffrey, and stated the reason he shied away from doing this type of thing in the past is because there are going to be a lot of cases where people are going to have problems with it for one reason or another.

Walt Scott asked if the Township has to purchase a meter. Vice-Chairman McCaffrey noted the Township already has a meter that is calibrated by a standard so that they know that it is reading properly. The standard will be recalibrated at regular intervals to make sure that the standard is accurate. Mr. Scott voiced that he was in favor of the legislation, noting if the people are considerate people, they won't violate it. Supervisor Lindborg felt that by having this ordinance, it might force people to be more considerate.

A resident noted she lived in Broomall for years where they had an ordinance, everyone was respectful to one another, if someone was being disrespectful it was taken care of by the ordinance.

Dave Brown of Westview Drive recently moved to WBT and noted it was very disheartening to find out they had unreasonable neighbors. Chairman Obernier stated that the BoS tried to put together an ordinance that is simple and reasonable and the BoS has the ability to alter it to accommodate the greatest number of people.

Vice-Chairman McCaffrey noted that the BoS works well together and reiterated that it is the furthest thing from the Boards mind to be the "noise police," they only want to have some way to control a very rare inconsiderate individual. Vice-Chairman McCaffrey expressed that he doesn't want to see this used at some later date to have an official patrol an area for noise, that is not the Board's intention. Cindy Watts noted she favored the ordinance and thanked the BoS for listening to their concerns.

Adjournment from the Public Hearing (8:02 p.m.)

Re-Opening of Township Meeting (8:02 p.m.)

Old Business

The Township Manager is in receipt of a propose "final draft" on the Technical Specifications for Traffic Control Signalization from McMahan Associates, Inc., reviews are taking place and input is requested. Vice-Chairman McCaffrey found it satisfactory. Chairman Obernier read it three times and asked if Manager Rambo was satisfied with the document. Manager Rambo has a meeting with McMahan and will also be talking with Tom Eells with regard to what they may want to see as far as generators within the specs. Supervisor Lindborg noted he read it and deferred it to the Manager.

Final discussions on the Township's proposed Noise Ordinance NO. 06-07. Vice-Chairman McCaffrey noted that some things take a long time because the BoS likes to make the change smooth and acceptable, the Township is slow and ponderous because they want to make it right the first time.

Martin Kimmel of Kimmel/Bogrette is in the process of completing the renderings and specs for the proposed upgrades to the Public Works Facilities. Manager Rambo is waiting for the proposal.

Discuss proposed Ordinance NO. 06-08 dealing with the Health/Exercise/Racquet Sports Club, scheduled for a hearing on Thursday, June 15, 2006. Vice-Chairman McCaffrey stated they should define specific uses and parking for uses rather than try to take a multitude of different uses within their facility and then give that a name. Chairman Obernier didn't see the need to pass an ordinance specifically for the YMCA, as Vice-Chairman McCaffrey had pointed out correctly at the last BoS meeting, things may change over time, the need for parking may diminish or increase. Chairman Obernier would like to have the ability over time to have a review, or when they change what they are doing, to have a review of the parking. Chairman Obernier would like to see the sketch that he asked for as to what they propose for parking. Chairman Obernier stated as Vice-Chairman McCaffrey suggested at the first meeting in May, it might be good to have a paver area should they have an overflow event for parking. Chairman Obernier did not favor an ordinance just for the YMCA, he would like to be able to reexamine the parking as they do their changes.

Supervisor Lindborg noted part of the problem is that they are looking down the road and are looking for ground rules, in fairness to the YMCA, they are trying to correct a problem that exists and come up with a plan to address an existing issue and feels that the BoS needs to accommodate them the best that they can. Vice-Chairman McCaffrey noted he didn't ask for pavers, all that he said was that if they are planning an expansion, he would like a parking area set aside so that they didn't expand on areas that they might need for parking. Vice-Chairman McCaffrey noted that there is a certain kind of porous black top that is fantastic when it is working, but if they accidentally seal it or if there is an oil spill on it, you end up with a problem trying to get it to drain again. There were no further comments.

The Township Manager is preparing Conservation Easement information for submission to the BoS and the Henderson's with regard to their property at the intersection of 82 & 322. There were no comments.

The Township Engineer and Manager are working on updating the Township's Act 537 Plan for submission to the BoS. Manager Rambo would like comments from the BoS prior to doing the draft so that the comments will be included it.

Old Business from the Floor

There was no Old Business from the Floor.

Old Business from the Board

Chairman Obernier noted that at the first meeting in May, Carl had asked Manager Rambo to come up with suggestions on changing the definition of open space, with the thought that open space should be unencumbered. Manager Rambo would like to know what the BoS would like to see in it. Supervisor Lindborg stated they are trying to get away from developers using open space for sewage disposal, retention areas, etc. Manager Rambo will contact John Snook. Vice-Chairman McCaffrey noted the Township has soil types in WBT that have characteristics of wetlands and would like those soil types included with the wetlands delineation. Supervisor Lindborg would like to ask Jim MacCombie what his thoughts are on that.

Chairman Obernier noted that he would like to drop spray irrigation either to the bottom or off the list on the Act 537 Plan. They have had twenty years of spray irrigation and have received enough comments that nobody likes it. He would like to add a category for treated water used for agricultural irrigation. Vice-Chairman McCaffrey noted that the Act 537 Plan has a listing of disposal technologies that they would like them to pursue; the BoS should look at them and rank them. The listing should be applied to all systems that could be installed in the Township. Both Chairman Obernier and Supervisor Lindborg were okay with that.

Chairman Obernier would like to have a plaque ordered for members that resigned that have not yet received one.

Chairman Obernier noted that Chief Werner came up with an ordinance for reimbursement for police and fire services, John Good had commented that he wasn't aware of state statute permitting that. Manager Rambo stated that the other township that adopted that didn't go through a solicitor, they just wrote the ordinance and adopted it.

Chairman Obernier noted that the last time the post office commented back to the Township, they were going to give the Manager a letter with their requirements. Manager Rambo has not heard back from them yet. Manager Rambo will write the USPS a letter as well as send a letter to Jim Gerlach.

Vice-Chairman McCaffrey noted that the BoS should adopt certain policies and should take the time to discuss it. They all want similar things to happen, if one Board member can't make it then the present Board members can discuss it. Manager Rambo will draft policies and present them to the Board.

Ordinances and Resolutions

Ordinance's NO. 06-07; proposed Noise Ordinance. Vice-Chairman McCaffrey motioned to adopt Ordinance NO. 06-07. Supervisor Lindborg seconded the motion. Board Members McCaffrey, Lindborg and Obernier voted aye.

New Business

Approval of release request #4 for the Hide-Away Farms Project. Manager Rambo and the Township Engineer reviewed the request and found it satisfactory. Vice-Chairman McCaffrey motioned to approve the release request for Hide-Away Farms. Supervisor Lindborg seconded the motion. Board Members McCaffrey, Lindborg and Obernier voted aye.

Newsletter articles are due on Linda Formica's desk by Monday, June 5, 2006. Vice-Chairman McCaffrey gave a brief explanation of a court case regarding a local Fox Hunt and the dogs going onto private property and how he wanted to go there to express the Board's feeling that they would like to accommodate this activity and establish guidelines that would be acceptable for both participants and property owners. Vice-Chairman McCaffrey will write an article explaining the heritage of Fox Hunts.

The Township is in receipt of a "draft franchise agreement" with regard to Verizon. It was compiled by the West Chester Area of Council of Governments and is being reviewed by the various Township's and Managers that have been meeting in western Chester County with Verizon, along with various other correspondence from Comcast and Verizon concerning Senator Pileggi's proposed bill to create a State Cable Customer Choice and Competition Act. Manager Rambo has been in contact with Senator Pileggi's office to request a copy of his proposed senate bill. The bill is supposed to take the ability for the local municipalities to negotiate with Verizon for a franchise agreement away and put it in the state level. Vice-Chairman McCaffrey voiced opposition to this stating that Senator Pileggi would be doing his own citizens a disservice by passing this rather than support local government to try to make services

available for every person for an equitable price. Manager Rambo noted there have been fourteen municipalities meeting at WBT for the past five months, they piggy backed on to the West Chester Area Council of Governments. After meeting with legal council, the various municipalities will be presenting this agreement to their local supervisors and boards. We are hoping to get this adopted before the Pileggi bill can be passed.

A Public Hearing is scheduled for Thursday, June 15, 2006 with regard to revised Ordinance NO. 06-08, Health/Exercise/Racquet Sports Club. Supervisor Lindborg suggested that they move the meeting with Stanley Stubbe to July 6, 2006.

The Township Solicitor and Manager are preparing an Opinion & Order for the Dr. Gordon Eck Conditional Use Application. Vice-Chairman McCaffrey felt that what is being granted in the Opinion & Order is excessive, the more he looks at it the larger the activity seems to be. The purpose of the Historic Preservation Ordinance is to allow some activity that would not normally be allowed in order to preserve a historic resource. It sounds more like an amusement rather than the bed and breakfast that it started out as.

The Township Manager and Solicitor are working on the preparation of the Opinion & Order for the Pulte Homes Conditional Use Application. Chairman Obernier stated in that subdivision Pulte requested narrower streets, they want on-street parking. There is a problem with fire trucks negotiating the turns and they are now proposing no parking in certain areas. Chairman Obernier feels that there should not be any on street parking, just like the rest of the Township. Chairman Obernier also stated that there should be 3 two-way entrances, they are only proposing two; a third could be accessed through East Brandywine. It is a huge development and to funnel everything through the two entrances would not be wise.

Supervisor Lindborg also felt that having a third access would be very advantageous for that community and shouldn't be that difficult for them to accommodate. Chairman Obernier noted they are proposing the transfer of some open space; some parcels come with conditions that are too strident. Chairman Obernier would like no conditions on open space that is transferred to the Township. The developer came to the Township asking for a transfer of development rights so they could have a super high density. The open space that they are giving for the transfer of development rights comes with too many conditions.

Supervisor Lindborg noted that for him creating that open space and restricting it for use by WBT residents is creating a benefit for East Brandywine Township residents. Vice-Chairman McCaffrey stated the value of that ground is less when there are restrictions on it. If they are putting restrictions on it, then they should supply additional ground in another location to make up for the loss of value of that property, because it is not a simple transfer, they are not giving the Township the property unencumbered. All Board Members were in agreement. Vice-Chairman McCaffrey noted there are extreme cuts and fill in that property and would like for the Township Engineer to look at it to determine how much they loose by reducing the size and the methods of these cuts.

Vice-Chairman McCaffrey also noted that they are doing away with trees that would protect the headwaters, they should have other mechanisms mentioned in their plan that are going to retain the value of the stream.

New Business from the Floor

Jeff Donna copied the Board and included pictures on information regarding a buffer between Cherry Lane and Pulte Homes.

New Business from the Board

There was no New Business from the Board.

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

Chris Catania (Jamie Lane) asked if he could get started on a couple of lots, noting the Engineer's comments. Manager Rambo suggested that the Codes Officer do a site visit to determine the best location within the building envelope for the least disturbance of trees, so that the more mature trees are left. Further discussion ensued.

Pat Edwards commented on how the trash hauler threw their recycle bin.

Open Issues Before the Township

SPCA 2006 Animal Control Contract. The Township is in receipt of information.

Ordinance amendments with regard to the IBC (International Building Code). Dale Barnett is currently reviewing this.

The Manager is awaiting input on the proposed Access Management Ordinance from Supervisors Lindborg and McCaffrey. There were no comments.

The Township continues to seek volunteers to serve on the Buildings Appeals Board, the Parks and Recreation Board and the Historic Commission. There were no comments.

General Obligation Note (Adjustable Rate Loan based on Harrisburg Bond for the Facility/Park Construction) Interest rate for the week is 3.82 %, down from two weeks ago.

Review and Payment of the bills.

Review and Payment of the General Fund, Solid Waste Fund bills, and Liquid Fuel Fund. Vice-Chairman McCaffrey explained it is their practice to look through the bills and purchase orders associated with the checks, they were found satisfactory and motioned to pay the bills. Supervisor Lindborg seconded the motion. Board Members McCaffrey, Lindborg and Obernier voted aye.

Upcoming Meetings/Events

- Municipal Authority meeting, Thursday, June 8, 2006 at 7:30 p.m.
- Movie night (King Kong), Saturday, June 10, 2006 at dusk.
- Historic Commission meeting, Monday, June 12, 2006 at 7:30 p.m.
- Parks and Recreation Board meeting, Tuesday, June 13, 2006 at 7:30 p.m.
- Board of Supervisors meeting, Thursday, June 15, 2006 at 7:30 p.m.
- Planning Commission meeting, Thursday, June 22, 2006 at 7:30 p.m.

Adjournment

There being no further business before the Board, Supervisor Lindborg motioned to adjourn the meeting at 9:05 p.m. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey and Obernier voted aye.

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