

Meeting Minutes of July 26, 2006
Board of Supervisors
Municipal Authority

Chairman Obernier called the Special Board of Supervisors/Municipal Authority Meeting of July 26, 2006 to order at 7:07 p.m. and then led those present in the Pledge of Allegiance. Roll call of the Boards by the Township Manager noted Chairman Josef G. Obernier, Sr., Supervisor Carl S. Lindborg, Wilbur C. Adams, Charles H. Hossack, William L. Goins, and William McAdoo in attendance. Vice-Chairman Thomas J. McCaffrey, Jr. arrived at 7:26 p.m. Ronald A. Rambo, Jr., Township Manager was also present.

Correspondence/Communications *Information to Act Upon*

The Township is in receipt of a letter of extension dated July 25, 2006 from Scott Emerson for the Culbertson Village Final Subdivision Plan. The extension runs until August 17, 2006 in which to make a recommendation and render a decision. Supervisor Lindborg motioned to accept the letter of extension. Chairman Obernier seconded the motion. Board Members Lindborg and Obernier voted aye.

Andrew Eberwein of E.B. Walsh & Associates has forwarded the Township a waiver request with regard to the water supply flow for the new regional Catholic School along with a letter from MARCO, the sprinkler design company. Manager Rambo noted that at the last BoS meeting the Board requested that Mr. Eberwein provide the township with information that the system was designed properly by an organization that has designed fire depression systems. MARCO forwarded a letter to Branch Valley Associates who is the contractor for the construction of the school and advised them that it is designed in accordance to NFPA 13 2002 edition that the township currently goes by. Based on the latest water flow test by AQUA, we can meet the sprinkler demands based on the calculations made for the sprinkler system as it was designed to date. Supervisor Lindborg suggested that Manager Rambo and Jim MacCombie review this with the appropriate people to make sure that they are comfortable with this system. Chairman Obernier would like them to supply documentation by a professional design engineer supporting this system. Supervisor Lindborg expressed there is no level of comfort here.

Adjournment from Township Meeting (time:7:16 p.m.)

Opening of Public Hearing (time:7:16 p.m.)

Hearing on Ordinance No. 2006-09, dealing with the Verizon Franchise Agreement. Kristin Camp, Esquire who represents the township is in attendance to give a brief review of the agreement. Ms. Camp noted that the Agreement was advertised as required by law. A copy of the agreement with the Ordinance was hand delivered to the Daily Local and Chester County Law Library. The agreement was negotiated first by the West Chester Area Council of Government. That document was a model moving

through Chester County including West Brandywine Township. Manager Rambo was one of the leading forces in that meeting making sure that certain terms were put into the agreement. The Ordinance is very simple, three sections simply adopting and approving the franchise agreement. The franchise agreement authorizes the provision of cable services through fiber optic network that is already in place. Verizon is anxious to begin. The agreement is for a ten-year term with a five-year renewal unless it is terminated prior to that end of term.

Two things of interest; there is pending legislation in the general assembly that would take the franchising authority out of the local municipalities hands and make it be a state wide franchise. That state legislation has a clause so that any agreement that is in place, if they would approve the ordinance tonight, the agreement would be grandfathered if the state legislation would be enacted. There is also pending federal legislation that does not have that clause, but Verizon has agreed to honor the terms of the franchise for the length of term. Ms. Camp noted that Michael Gill has gone over this agreement very carefully and discussed it in detail with Manager Rambo and it is ready for adoption.

Manager Rambo stated that they have been meeting with a multitude of municipalities as a group to discuss Verizon since last October. It has taken this period of time to come up with the respective language that he believes that Verizon is okay with. The township's legal council has prepared for them an Ordinance to consider for adoption this evening. Chairman Obernier noted he read through the Ordinance and there are some minor things that he might want to change, they are minor things and is okay to just let the Ordinance be as it is. Supervisor Lindborg stated he read through the Ordinance as well and is okay with it also. There were no further comments. Supervisor Lindborg motioned to close the Public Hearing. Chairman Obernier seconded the motion. Board Members Lindborg and Obernier voted aye.

Adjournment from Public Hearing (time: 7:20 p.m.)

Re-Opening of Township Meeting (time: 7:20 p.m.)

Old Business

Final comments on the proposed Verizon Franchise Agreement; Ordinance NO. 2006-09. There were no comments.

Ordinances and Resolutions

Consideration of Ordinance No. 2006-09 dealing with the Verizon Franchise Agreement. Supervisor Lindborg motioned to adopt Ordinance No. 2006-09. Chairman Obernier seconded the motion. Board Members Lindborg and Obernier voted aye. At this time Chairman Obernier noted that Vice-Chairman McCaffrey has arrived in the meeting.

Chairman Obernier then gave Andrew Eberwein a recap of discussion regarding MARCO's letter. Chairman Obernier asked Mr. Eberwein if MARCO has an engineer on staff that designed this system, who would put his P.E. stamp to the design. Mr. Eberwein answered he didn't know, the specifications for the design were prepared by the mechanical engineer that was hired by the architect and the school. Mr. Eberwein stated that E.B. Walsh established the specifications that MARCO had to design to. Chairman Obernier noted he would be comfortable if they can give the BoS a letter from some professional engineer that says that this system, the way that it is designed, will work.

Mr. Eberwein suggested that because of the time involved in this, that the BoS make a motion to accept the waiver conditioned upon the township receiving the above noted letter and having the Township Engineer and Manager Rambo finding is satisfactory. Otherwise if the BoS is not comfortable with this,

by the meeting of August 17, 2006, they can stop the work. Vice-Chairman McCaffrey was very uncomfortable that they can't meet the standards other people that come to the Township have met. Discussion ensued. Supervisor Lindborg motioned that the BoS tentatively grant a waiver to the 1,050 gallons per minute based on receiving an acceptable letter from a registered professional engineer stating that this system will work, following the receipt of that letter have it reviewed by Manager Rambo and Jim MacCombie, and if they are comfortable with it, they can move forward. Also based on the contingency that by the August 17, 2006 meeting, if the BoS has a problem with what is going on, if there are some other issues that they will stop their work. Vice-Chairman McCaffrey added if Jim MacCombie finds it satisfactory, he would go along with it. Chairman Obernier seconded the motion. Board Members Lindborg, Obernier and McCaffrey voted aye.

New Business

The BoS and the Authority Board to review and discuss the proposed Inter Municipal Sewer Agreement with regard to Pulte Homes 55+ Community. Chairman Obernier noted that the Municipal Authority (Bill Goins, Bud Adams, Bill McAdoo, and Chuck Hossack) is in attendance. Ray Grochowski of Pulte Homes was also in attendance. Chairman Obernier noted that on the draft of the Conditional Use, the BoS did not accept the proposed Inter Municipal Sewer Agreement because there were a number of issues.

Vice-Chairman McCaffrey noted his concerns were the lack of simplicity that he was looking for, it was supposed to be a simple agreement, and instead it incorporated a history and other details. He would like to purchase on a renewable basis, from year to year, a certain number of gallons. The way that it is written, they are underwriting the construction of the facility, based on how many people are using it. Vice-Chairman McCaffrey explained that he is simply looking to pay for a "price per gallon."

Chairman Obernier explained that their long-term desire is to no longer be in the treatment business. Their goal is to provide the sewage to go down to Coatesville and let them treat it. This whole agreement is truly for Pulte and was written by Pulte. Vice-Chairman McCaffrey stated at this point the expense of connection should be borne by the developer. Mr. Grochowski stated that the agreement was written for Pulte and was written by Mr. Grochowski. Mr. Grochowski then explained his intension for different issues pointed out in the agreement.

Jim MacCombie explained the document said that the township, for the Authority, would collect tap in fees and pay them. That was not the intent, he believed that what Chairman Obernier was saying is if the agreement is temporary in nature at the time that those flows stop going to East Brandywine Township (EBT), once they would be rerouted to go to the PAWC, there is going to be a tap in fee due to PAWC. Chairman Obernier stated that it was his understanding that the tap in fee is generated by how many different pumping stations that it is going to go to. Mr. Grochowski stated that Pulte would pay for that.

Mr. Grochowski explained that this agreement is just a first draft and would like the BoS and Municipal Authority to share what they have with Coatesville so that he could draft something similar. Chairman Obernier stated they pay X number of dollars for Y number of gallons, that's it. Supervisor Lindborg noted his concern is that PAWC is a public utility. If they are going to increase their rates, they can't arbitrarily do that. This system that you are building and East Brandywine Municipal Authority is going to be operating is not a public utility. His concern is how the costs would be calculated and justified for the residents of WBT.

Vice-Chairman McCaffrey stated that they have not yet discussed what East Brandywine Township's Authority is going to want from WBT as a guarantee for their security in their system. WBT for good or bad is looking at this as expediency, it is something to allow a development to move forward rather than

wait for the sewer system that they would traditionally use. The agreement left Vice-Chairman McCaffrey feeling uneasy because of the way that you could interpret things. He would like to review the agreement that the Municipal Authority has with the PAWC. Vice-Chairman McCaffrey noted this is something that the developer would like to have. He would like to see the developer make the arrangements and pay the bills and the township would temporarily allow sewage flows to go from some point in the township to outside over a period of time.

Mr. Grochowski explained that WBT has no sewer service available in this area, an expansion is proposed in Coatesville, but it is not known when. He has the right to seek his own sewer arrangements, if none are made available. Vice-Chairman McCaffrey stated he could put in a treatment facility within the township, they can re-evaluate the open space, flow rates, disposal rates, etc. Vice-Chairman McCaffrey does not favor his attitude that he has a right to go outside the borders of the township to dispose of his sewage. Mr. Grochowski explained that part of the motivation to move the sewer into East Brandywine Township has to do with the golf course and the need for water. Mr. Grochowski stated that he would have to give assurances so that EBT wouldn't be left holding the bag.

Chairman Obernier noted that earlier Mr. Grochowski had stated that there was no desire on his part to have WBT residents pay capital costs and then quoted from page 7, item B of the agreement. Mr. Grochowski noted that Chairman Obernier was correct in those items, but there are no capital improvement costs, the document talks about routine maintenance. Vice-Chairman McCaffrey stated he is looking for something simple, very transparent, that was allowing a temporary connection and then the actual connection would take place for the residents in the township and sewage would go in a different location. Manager Rambo will give Mr. Grochowski a copy of the PAWC agreement.

Chuck Hossack noted that this doesn't address what they would do if this sewage does not come to fruition and PAWC be prevented from further emptying into the Brandywine and questioned what they would do at that point. Chairman Obernier felt that would be PAWC's problem. Jim MacCombie asked what provisions would be made for a longer period of time for the temporary connections, if for some reason PAWC can't expand in a timely fashion. Mr. Grochowski stated that for every unit that he connects in WBT he would remove one unit from EBT. Supervisor Lindborg stated that there was concern from the solicitor as well. Mr. Grochowski stated that he is accepting the risk.

Jim MacCombie asked what point of time is Pulte conveying the system over to East Brandywine Authority. Mr. Grochowski noted that the Act 537 Pulte permit is expected in 30 days, they are ready to start the treatment plant in EBT first. As far as dedication to EBT, they have an agreement that goes through the normal dedication procedures including inspections. They have an agreement relative to how the treatment plant is built and handed over to EBT. Once the flows go to Coatesville, Pulte will pay the tap in fee and whatever the rate is then. WBTMA will be billing the residents in WBT.

Chairman Obernier noted page 9 item 7, EBT improvements. What the township is looking for is to pay a fair amount for the EBT residents and the WBT residents pay the same amount, and at some point in time are looking to move the effluent into the West Brandywine system and let it be treated by Coatesville. In the end result the township is expecting this to go to Coatesville and are expecting every house in West Brandywine to come under whatever the Municipal Authority wants to charge. Until now everyone in WBT pays the same amount. Chairman Obernier would like the document rewritten. Mr. Grochowski stated he has no problem rewriting it, but would like help from everyone to rewrite it.

Supervisor Lindborg had concerns about the cost. Jim MacCombie noted that EBT and WBT wouldn't be paying exactly the same because WBT is responsible for lines in WBT, there would be some cost associated with those lines. They would like to have the parameters so that anyone can look at the

information that would be supplied by EBT to see their allocated costs to be assured if you are getting charged fairly based on proportionate share of the costs. Mr. Grochowski commented that was all he was trying to do.

The BoS expressed that they were not trying to impede development or slow them down, but that is a large issue for WBT. It was noted that item 13 is something that the Municipal Authority can't agree to. Pulte will be given a copy of a memo with suggestions that Manager Rambo provided to the BoS. Chairman Obernier asked Mr. Grochowski if they were providing the tap in fees for the residents in EBT. Mr. Grochowski answered there is no tap in fee for them. Chairman Obernier noted that he understands that for WBT the situation is different, when the residents connect they will pay a tap in fee. Chairman Obernier suggested that Pulte put their pump station to the south of their development, they would be able to connect to the pump station at the bypass and it would be less expensive. Manager Rambo will meet with Mr. Grochowski to go over everything. There were no further comments.

Public Comments *Individuals requesting to be on the agenda*

No one requested to be on the agenda.

Adjournment

With no other business to discuss, William McAdoo motioned to adjourn the meeting at 8:24 p.m. Wilber Adams seconded the motion. All Board Members voted aye in favor to adjourn.

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