

**Meeting Minutes of January 7, 2005
Board of Supervisors**

Chairman Lindborg called the Board of Supervisors Meeting of January 7, 2005 to order at 8:05 a.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. Ronald A. Rambo, Jr., Township Manager was also present.

Manager Rambo noted this Special Meeting is pertaining to Ordinance 05-02, which was the Occupational Privilege Tax that will be revised to the Emergency and Municipal Services Tax.

New Business

Acceptance of a letter of extension dated January 4, 2005, from Steve DiMarco for the rendering of an Opinion & Order for the Golf Zone Conditional Use. Manager Rambo noted that he will be meeting with Mr. DiMarco to go over everything and recommended that the BoS accept the letter. Supervisor McCaffrey motioned to accept the letter of extension. Vice-Chairman Obernier seconded the motion. Board Members McCaffrey, Obernier, and Lindborg voted aye.

The Township is in receipt of an email from Andrew Gottlieb dated January 6, 2005. Dr. Gottlieb is in the process of putting in a Conditional Use Application so he can use the residence of 1404 Horseshoe Pike for a Doctor's practice and is requesting a waiver from a site analysis. Manager Rambo feels that the site analysis doesn't need to be done with this type of application. Dr. Gottlieb is going to submit the required plan with the Conditional Use Application. Supervisor McCaffrey motioned to accept the waiver request. Chairman Lindborg seconded the motion. Board Members McCaffrey Lindborg and voted aye. Vice-Chairman Obernier voted nay.

The Township is in receipt of a letter dated January 6, 2005, from the Township's Comprehensive Plan Task Force Chair, Steve Jakatt. Manager Rambo noted the letter states that the Task Force wants the BoS to review and comment before they continue with the re-writing of the Comprehensive Plan. Supervisor McCaffrey would like the most current document sent electronically. Manager Rambo will forward the document on to the Board.

Adjournment from Township Meeting was at 8:10 a.m.

Opening of Public Hearing was at 8:11 a.m.

Manager Rambo noted this Hearing is pertaining to Ordinance No. 05-02 for any discussion from the Board or Public Input with regards to the Ordinance. This Ordinance is amending the

Occupational Privilege Tax (\$10) that will be revised to the Emergency and Municipal Services Tax (\$52). Chairman Lindborg noted that \$5 of the \$52 will go to the CASD and asked if the Tax would be collected on a quarterly basis and felt it should be done the most efficient way and easier for the people. Manager Rambo will talk with Berkheimer, the Township's current OPT collector with regards to how they are going to collect the money and noted their rate will remain the same.

Supervisor McCaffrey questioned the verbiage in Section X, item B on Ordinance No. 05-02, stating that he felt the text was confusing and should read, "or proper proof of payment elsewhere *not* supplied" adding the word "not." Manager Rambo noted that according to the Township Solicitor John Good, this is how it has to be. Supervisor McCaffrey stated that he is assuming that a person that supplies that information doesn't have to pay that tax the way that it is written. Manager Rambo said that is correct. Vice-Chairman Obernier stated he gets the impression that there are various ways in which to show proof, by the taxpayer that shows proof by his/her pay stub or by the employer that shows payment to Berkheimer.

Manager Rambo explained that this money is to be applied to road improvements, road personnel, police, fire, ambulance, any emergency services and municipal services. Chairman Lindborg noted that this is directed to the services that potentially the people working in the Township using the roads, police, and any emergency services can benefit from.

Joan Thompson, from the Coatesville Ledger asked if the Board was planning to apply some of the money towards the Fire Company. Manager Rambo answered at the current time no. Vice-Chairman Obernier stated he was concerned because they haven't pinpointed a use for this money. In the adopted 2005 Budget they have allocated money for the replacement of a full-time police officer. After talking at the last BoS meeting, they were going to apply the Emergency and Municipal Services Tax to road maintenance. He would like to appoint a full-time officer at the same time that he approves this tax increase.

Supervisor McCaffrey stated he is not against combining those two issues, the thought of a police officer coming out of this, was not in his mind. The road department has been a stepchild of this Township for a long time and it needs to have extra funding, they do a lot of work and have been short handed for a long period. Recycling of brush was added; there is a contract addition of duty to that department and never an increase in manpower. The police department will probably get its funding somewhere. Supervisor McCaffrey felt that you couldn't earmark this to any specific purpose clearly and then be able to trace it through the budget that way. Increase funding should largely go toward streets, which are falling behind in the twenty-year schedule.

Vice-Chairman Obernier asked the Manager if the adopted 2005 Budget contains the funding for a replacement full-time police officer. Manager Rambo answered yes. Vice-Chairman Obernier stated in the beginning of last year, there was money put aside, then there was a delay until June and the funding was not there anymore. Vice-Chairman Obernier was okay to allocate the money that comes in from this new tax to the Road Department as long as the full-time officer position is filled. He would like to be sure that it happens now, because as last year, if they don't do it in the beginning, then suddenly the funding is not there, and the funds they get in from the new tax are spent. Supervisor McCaffrey wants to see if they get the money first before they spend it. Vice-Chairman Obernier stated the money is already in the 2005 Budget for the full-time person, they can just appoint the officer, and whatever monies come in from this, he can agree to completely allocate it to the Road Department.

Chairman Lindborg stated one issue before they appoint an officer is that it may be advantageous to interview people, perhaps there is more than one candidate for this position, but he isn't ready to do that today. Vice-Chairman Obernier stated he appreciated his comments, but feels that his thought goes back to last September/October. And feels that the two to three months that the BoS had to interview the people and talk to the district justice, that enough time has passed for that to have happened. Both Chairman Lindborg and Supervisor McCaffrey stated that they have not had the time.

Supervisor McCaffrey stated he wasn't positive that he is even for this appointment, the Police Department is costing another \$100,000 because of their recent contract that wasn't talked about in September. He hasn't seen a decrease in the level of service or any complaints from the population about the police services. The only thing that Supervisor McCaffrey saw was the statistical analysis of population versus the number of officers pointing to a reason for another police officer. Our community is not a typical community, we have no real industrial base, no commercial base, West Brandywine Township doesn't have a number of draws for police services that other communities have. The Township is doing fine with the Police Department they have already. He would like to see the analysis and reasoning behind converting a part-time person to a full-time person. He personally doesn't see the money as budgeted for that Police Officer even if it has been stated so in the current rendition of the Budget.

Vice-Chairman Obernier stated that the money is in the Budget. Supervisor McCaffrey stated that Vice-Chairman Obernier says it is in the Budget, but Supervisor McCaffrey would like to see when the Budget is a couple months old, to see if we are actually adhering to it. Vice-Chairman Obernier stated if that's the case, then they shouldn't spend any of the new tax money on anything, the first thing they should spend it on is filling the full-time position that has gone unfilled for over two years. Supervisor McCaffrey stated he wouldn't grant this money for the use of police purposes only, he will not hire an officer without interviewing them, and will not hire an officer without an analysis showing why the officer is needed. Vice-Chairman Obernier stated he couldn't go along with the tax increase under that basis.

Chairman Lindborg would like the tax increase to be used mostly for the roads, the real benefit will be to the people who will be paying it as well as the resident's of the Township. Chairman Lindborg is looking forward to hiring another full-time police officer. Supervisor McCaffrey explained he is not throwing away the idea of an additional officer, he wants to look into it because of the expense. Vice-Chairman Obernier stated they have had over a year to look into it. It has been two-years that the position has been open. Certainly in the past three months, the Board had discussed it and the Manager suggested speaking with Chief Werner and the DJ – District Justice. There is reluctance towards some of us to hire a full-time replacement for a position that existed in the past.

Vice-Chairman Obernier can't go along with the new tax, knowing that the money for this officer is already in the 2005 Budget, and there is still no desire to hire someone for this position. Supervisor McCaffrey stated they just researched the cost for a police officer, which is \$130,000 per year. The money that is going to be collected from the new tax is unknown, but estimated somewhere between \$60,000 and \$80,000; therefore it doesn't even cover the cost of the new officer. To allocate it towards the officer means that 100% of it would go there and it wouldn't be enough. The Road Department could make better use of that money. He didn't know where Vice-Chairman Obernier got the recollection for a new police officer.

Vice-Chairman Obernier stated it was not a recollection; we have been down for two years. Manager Rambo goes through the budget each year, he is very good at it. The money is in the budget today for a full-time police officer. He is not anticipating any money will be needed from the Emergency and Municipal Services Tax. Supervisor McCaffrey asked why Vice-Chairman Obernier is hinging this Ordinance on hiring a police officer. Vice-Chairman Obernier explained that Supervisor McCaffrey keeps saying that even though the money is allocated in the budget he is afraid that the Township can't afford it because of the Police contract last year. If he is that fearful that our budget is so shaky, and not truly reflective of our expenses, then lets hold Emergency and Municipal Services Tax money aside, hold it in the bank, and use it to make up that deficiency in the full-time budget for the police officer.

Supervisor McCaffrey felt that Vice-Chairman Obernier is holding the communities Emergency Services and Road Department hostage for his desire to immediately appoint an officer. Vice-Chairman Obernier stated that "immediately" goes back two years. Manager Rambo noted that this new Emergency and Municipal Services Tax money is not going to be used in any way to offset any deficit; there is no deficit in the current budget. There is currently money in this year's budget for both a full-time Road Department person and a full-time police officer. It is up to the board as to when you want to appoint these people. Vice-Chairman Obernier would like to put the adoption of the Emergency and Municipal Services Tax to the side, until the Board can make the decision to hire a full-time police officer. Chairman Lindborg stated that he wasn't willing to do that, he feels that is a separate issue, that the issue here is whether they are going to adopt the Ordinance to bring in money for the Road Department, that it is badly needed. Vice-Chairman Obernier agreed that it is badly needed, however, public safety is more important than potholes. Chairman Lindborg felt that potholes are public safety. He had no one complain about their safety being threatened because they don't have another full-time officer. Supervisor McCaffrey stated he has received several calls about road problems. Vice-Chairman Obernier stated he heard many comments from Chief Werner and all of the members of the Police Department that they are just short handed and investigations fall by the wayside. Chairman Lindborg stated the Police Department must have a better opportunity or feel more free to talk to Vice-Chairman Obernier because no one had spoke with him about it. Supervisor McCaffrey agreed, no one had forwarded anything to him either.

Adjournment from Public Hearing was at 8:27 a.m.

Re-Opening of Township Meeting was at 8:28 a.m.

Old Business

Additional discussion on Ordinance No. 05-02. Vice-Chairman Obernier motioned to delay the adoption of Ordinance No. 05-02, so they can take care of the Police Department's full-time police officer's position. There was no second, the motion died.

Ordinances and Resolutions

Ordinance No. 05-02 adoption consideration. Supervisor McCaffrey motioned to adopt Ordinance No. 05-02. Chairman Lindborg seconded the motion. Board Members McCaffrey and Lindborg voted aye. Vice-Chairman Obernier voted nay. The motion carried two to one.

Discussions continued regarding the hiring of a new police officer. Supervisor McCaffrey stated that when he feels confident that the budget projections that were made for income are being met

and since we know the cost of the officer has been added to the budget, he would look at appointing another person after they are interviewed. If Vice-Chairman Obernier has already had a chance to interview people and visit the District Justice, then Vice-Chairman Obernier is ahead of the game and knows whom he already wants to appoint. Supervisor McCaffrey stated that he hasn't been officially presented with a list of candidates; there is one that seems to be a favorite. He expressed how expensive it is to get a police officer and wants to be sure they select the right person.

Vice-Chairman Obernier reiterated that this full-time police position has gone unfilled for over two years. He feels that it is unfortunate that Supervisor McCaffrey has not spoken with Chief Werner because the Chief has made it very clear that he wants this one fellow. One year ago Supervisor McCaffrey had said the same thing, there was always a delay, and he was always working. The end result was when June came around and there is no money to do it, we were to do it the next year, now the money is in the budget, and Supervisor McCaffrey still doesn't want to do this. This is not a new position; the position was vacated. Vice-Chairman Obernier would like to fill the position that has been open for two years.

Supervisor McCaffrey stated that the real argument here is whether they want to have a full-time person or part-time people. There have been part-time people that have filled in for what has been required in hours over the last year; a part-time person has a lot of advantages. It's not that we have less police protection or less police services. The question is, how hard is it to get those part-time people.

Vice-Chairman Obernier asked the Manager if there is a state requirement for part-time employees for the maximum number of hours they may work shift after shift. Manager Rambo explained there is a Fair Labor Standards Act that talks about the number of hours with regards to working, before they would be considered a full-time individual. The Township does not require them to work the hours, they elect to. If the Township required them on a continual basis, such as one or two currently work more than forty-hours, they are basically putting them in a full-time position.

Vice-Chairman Obernier asked the Manager if that was a legal opinion, "when they elected to do this and that has not put the Township in that position." Manager Rambo said that was stated by our legal council Joe Rudolph. Vice-Chairman Obernier stated then, that the Township couldn't be sued later for back wages. Manager Rambo stated that he has not asked for that in writing. Vice-Chairman Obernier would like the Manager to get the opinion in writing from Joe Rudolph that it would not later come back to us, have a lawsuit because the part-timers were volunteering to work all that time.

Supervisor McCaffrey feels they should look for more part-time officers. Vice-Chairman Obernier stated they have a lot of part-timers, that is the problem. The Board has been reluctant in filling two full-time positions now for a couple years. Supervisor McCaffrey doesn't see a need for even one full-time position. It depends on how hard it is to find part-time people. Manager Rambo stated they have less part-time people currently on roster, because all the part-time people they have trained have gone elsewhere because they were offered full-time positions. They started out with seven or eight part-time individuals and are now down to four part-timers.

Supervisor McCaffrey sees they are adding around \$230,000 to our police costs by adding one full-time person and reiterated that he would like to be sure that the 2005 Budget can support this and to be shown that it is better than having part-time people.

Vice-Chairman Obernier asked the Manager if they have the costs for this one position already in the 2005 Budget and asked if there was any anticipation on the Manager's part that they would be unable to support that payment. Manager Rambo answered if everything goes the way that he foresees it, no. Vice-Chairman Obernier said if things don't go the way they see it, would it be prudent to set aside this new tax that was adopted today until they can be sure that the 2005 Budget is fully funded, to allay Supervisor McCaffrey's fears that as the year goes by, they won't have the money coming in. Manager Rambo explained that \$5 of this new tax is already in the budget and that the money from the newly adopted tax is not in the budget. The Manager explained that he doesn't know when that money will be coming in and that it is clearly stated they cannot use that money for a deficit.

Chairman Lindborg stated that when they voted for Ordinance No. 05-02, that it would be used for the Road Department. Vice-Chairman Obernier stated that was not what he heard, they didn't vote for it to be used for the Road Department. Supervisor McCaffrey stated that he heard it, that it would be largely used for the Road Department.

Supervisor McCaffrey proposed an amendment to their motion to approve Ordinance No. 05-02, the Emergency and Municipal Services Tax, that clearly for the record the majority of the money should be used for the Road Department, which has been a stepchild of the Township for sometime and needs the additional funding. It also serves people that are coming in and out of the Township that will be paying this tax. Chairman Lindborg seconded the motion. Board Members McCaffrey and Lindborg voted aye. Vice-Chairman Obernier voted nay.

Vice-Chairman Obernier doesn't want to spend the money on anything until the issue about hiring a full-time officer is settled. Supervisor McCaffrey stated that it was illegal to enact a tax without a purpose.

Public Comments

There were none.

Adjournment

With no other business to discuss, Supervisor McCaffrey motioned to adjourn the meeting at 8:46 a.m. Vice-Chairman Obernier seconded the motion. Board Members McCaffrey, Obernier, and Lindborg voted aye in favor of adjournment.

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