

Meeting Minutes of November 20, 2003
Board of Supervisors

Chairman Obernier called the Board of Supervisors Meeting of November 20, 2003 to order at 7:30 p.m., and then led those present in the Pledge of Allegiance. Roll call of the Board of Supervisors by Supervisor Lindborg noted Chairman Obernier, Vice-Chairman McCaffrey and Supervisor Lindborg in attendance. The following individuals were present to represent the various departments: Ronald A. Rambo, Jr.; Township Manager (Manager Rambo arrived at 8:15), Capt. Walter M. Werner; Chief, Dale Barnett; Codes Officer, and Thomas Eells; Road Foreman.

The Chairman moved onto Correspondence/Communications - Information to note and act upon. The first item under Information to Act Upon was the Township is in receipt of a sixty-day letter of extension from JoAnne Speers for the review of her Final Subdivision Plan. Supervisor Lindborg made a motion to accept the extension. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier all voted aye.

The next piece of information to act upon was Lan-Chester Christian School is requesting the Township's assistance as in the past with the providing of the Township's Portable Lighting Unit. There were no comments made.

The next item to act upon was the BVA has provided the Township with a 2004 Municipal Membership application for consideration. There were no comments made.

Information to Note was the next item of business on the agenda. The first piece of information to note was DEP has requested the Township to provide them with any comments it may have with regard to the PSW water allocation permit of 500,000 gallons per day (GPD) from the DMWA. There were no comments made.

The second piece of information to note was the Township has received a letter of thanks from the East Brandywine Baptist Church for the use of its portable lighting unit at their Harvest Festival. There were no comments made.

The third piece of information to note was the Chester County Assessment Office has provided the Township with its 2004 Statement of Valuations. Chairman Obernier noted this information is used to do the budget each year.

The fourth piece of information to note was PennDot has forwarded the Township a letter advising of the recent speed reduction authorization for East Reeceville Road between Route 82 and Reeceville Road. Tom Eells noted that the speed reduction went from 40 mph to 35 mph.

The fifth piece of information to note was Chief Werner has received a letter of thanks for assistance provided to the State Police by the Township's Police Department. Chief Werner noted Corporal Williams and K-9 Rudy assisted the state police in West Sadsbury Township.

The final piece of information to note was the Township is in receipt of an invitation to attend an upcoming Storm Water and Flooding Forum scheduled to take place on Thursday, December 4, 2003 in Downingtown. There were no comments made.

Chairman Obernier moved onto the Reports of Departments for the month of October. Walt Werner was present from the Police Department to give the police report and also noted they will be having Saturday with Santa on December 13, 2003 from 12:30 p.m. until 2:30 p.m. There were no comments made. Tom Eells gave the report from the Road Department. There were no comments made. Dale Barnett gave the report from the Buildings/Codes Department. No comments were made.

Chairman Obernier moved onto Reports of Organizations, Boards, and Commissions. John Cassels gave the report of the Planning Commission. There were no comments.

Being there was no one present from the Historic Commission the Chairman moved onto the Park and Recreation Board. Colin Judge gave the report from the Park and Recreation Board and also noted that Kristen Boldaz was resigning from the Park and Recreation Board. Vice-Chairman McCaffrey requested that a plaque be made for her years of service and be given to her at the Christmas party.

Supervisor Lindborg gave the report from the Municipal Authority and noted they are still looking into whether they have a right-of-way to finish examining the sewer pipes that are in Monacy Manor.

Chairman Obernier moved onto Old Business. The first piece of Old Business was the Board of Supervisors continues their search to fill the Historic Commission and Building Appeals Board vacancies. There were no comments made.

Mary Dodds of Ponds End Drive asked what type of requirements the Board is looking for to fill the Building Appeals Board vacancies. Vice-Chairman McCaffrey explained they are looking for people with a building background.

The second piece of Old Business was the Township has advertised Ordinance No. 03-12 through Ordinance No. 03-16, pertaining to parking, speed limits, stop signs, traffic signals, engine brakes, etc. for a December 4, 2003 hearing and adoption. Chairman Obernier noted the Manager's point was if the engine brakes have been modified illegally.

The third piece of Old Business was the 2003 Winter edition of the newsletter is being prepared for printing. There were no comments made.

The final piece of Old Business was final reimbursement requests are being tabulated for the release of the remaining grant funds from the County and State for the Community Park Project. There were no comments made.

Old Business from the Floor was the next item on the agenda. Colin Judge of North Hawthorne asked if there are any resolutions for the blacktop staining on Hawthorne Road and suggested that the holes be filled in where the core samples were taken.

Jim Dix from Fraser Boulevard asked if the Township received any new correspondence from the City of Coatesville regarding the Golf facility. Supervisor Lindborg answered no, he had not seen any.

Old Business from the Board was the next item on the agenda. Vice-Chairman McCaffrey noted that he had read an article where the City of Coatesville's police chief referred to their police as the real police in our area and stated that when assistance is needed that a big share comes from West Brandywine Police Department.

New Business was the next item on the agenda. The first item was the Board of Supervisors to render a Decision on the Bentley Community Conditional Use Applications for Culbertson Village, Beaver Creek Realty, and Swinehart Realty. Vice-Chairman McCaffrey was concerned there is environmental remediation going on with these properties and that the Health Department had not been contacted. If these areas are in the open space areas that may someday be the responsibility of the Township, then the Township will be the one that will be forced to take care of it.

Ross Unruh noted that an environmental assessment showed a small area of arsenic on the Beaver Creek property. He noted that in the case of the Beaver Creek property the soil was removed from the site and all the documentation has been completed. Standard state protocol has been followed.

Vice-Chairman McCaffrey was concerned because arsenic is in an isolated area and it does not seem to be an agricultural situation and it may be a place where it was unloaded. He noted another problem from the seventies on the Balderston property. Vice-Chairman McCaffrey wants to make sure that they have a written guarantee that the Township is absolved from any responsibility if there should be any future discovery of any contaminants. The Board was concerned that when they put sewage pipes and beds in there, they may disturb the soil and contamination may become a problem. It was suggested that Bentley look into taking an insurance policy out.

Ross Unruh explained they are following proper procedure and have applied for all the necessary permits and sent all the paperwork into DEP. DEP has ninety days to act.

Supervisor Lindborg noted he was concerned about the number of units for Culbertson Village and asked that Bentley add a maximum number of units to their three plans.

At this time in the meeting Chairman Obernier noted the Township Manager's arrival at the meeting. Craig Poff stated that the design has to be according to their layout they cannot change it without the Board's approval.

Vice-Chairman McCaffrey was concerned they have a blanket approval without knowing the full extent of what their plans are and pointed out that Bentley had stated that they can unilaterally relocate sewage facilities at the developer's sole discretion. Ross Unruh noted that this was talking about a limited area and if they can't figure out how to get rid of the effluent on Bentley's property then Bentley can buy another property and get rid of it there.

Manager Rambo noted they showed Bentley where they want the sewer systems and pump system located, in the area of Culbertson Run Road across from Apple Drive and explained they can relocate the pump station onto their own property and pump it through their property and go down Swinehart. Bentley can only change it if the Township doesn't assist in getting the easements.

Manager Rambo noted that Bentley will begin with the Swinehart project. When they build Culbertson Village they will extend the pipe across Route 322 to tie into the Kimberwick system.

Colin Judge asked why the Township intends to take dedication of the sewer system. Manager Rambo stated that this is a community system that will tie in four different systems and they will be doing away with one of the Townships systems. They will be accepting flows from 190 Township homes. The Township is co-permittee and owner of community sewer systems as per Act 537.

Vice-Chairman McCaffrey stated they were to decommission the Township's sewage treatment plant and disposal area at Kimberwick and have open areas and now it looks as though there will be sewage disposal fields everywhere. Manager Rambo noted the sewage disposal fields are noted on the Swinehart plan they discussed at a prior meeting in which Vice-Chairman McCaffrey and Supervisor Lindborg was in attendance.

The first area is Swinehart, the second area is Culbertson, and the third area if needed would be to bring the effluent back to Kimberwick. The spray areas would be decommissioned and they will put drip around the perimeter areas if necessary, however, they don't feel this would be necessary.

Craig Poff explained if that land is used up Bentley would then be responsible to find land to use. Vice-Chairman McCaffrey explained that what they had agreed upon 18 months ago may not be what happens now.

Manager Rambo suggested that Craig Poff note on his plans upon their submission that the areas to be utilized for displacement of effluents would be as defined by the Township Engineer and Manager in earlier discussions. Craig Poff noted the Municipal Authority would own the systems and that the treatment areas would not be accessible to the public. The areas utilized for the displacement of effluents would be open space and the Authority would need to make a determination on their use by the public.

Vice-Chairman McCaffrey noted wording on “page 5” and would like Bentley to clarify what their intent is with clear wording that can’t be misconstrued. Craig Poff will change the wording. Supervisor Lindborg asked that they also add “as per approved by the Township Engineer.”

A resident asked if there would be buffering separating the new developments from the current area residents. Vice-Chairman McCaffrey answered yes, that would be part of the subdivision process and suggested that she be involved with the process and express her concerns.

Supervisor Lindborg asked Ross Unruh about an item listed on “page 12” regarding requests to ask for additional extensions of time and that they shall not be “unreasonably denied by the Township,” and asked what the definition of “unreasonable” was. The Township agreed to one year and suggested they remove the “unreasonable denied” part. Ross Unruh will discuss it with Craig Poff.

Ross Unruh noted they are doing a special study that will involve an amendment to the Township’s Act 537 as to these projects and public sewer area. Vice-Chairman McCaffrey explained that when these things are being presented to DEP, they will be presented as a special set of circumstances involving a special study area, it is just to change regulations for a particular area that is under study and not the whole Township.

The next item that was discussed was Swinehart Realty. Vice-Chairman McCaffrey noted references for EDU’s for commercial. Manager Rambo explained that everybody is the same whether it is commercial or residential and noted the EDU formula. Vice-Chairman McCaffrey was concerned that the disposal system be adequate in case there is a problem in the future.

Vice-Chairman McCaffrey objected to the statement regarding storm water management for Culbertson. Manager Rambo explained that Culbertson is bound by the old Ordinance. Beaver Creek and Swinehart are bound by the New Ordinance. Ross Unruh explained they are agreeing to comply with the new Ordinance for Culbertson even though they don’t have to.

Vice-Chairman McCaffrey asked why they are calling this a public sanitary sewer rather than a community online system. Ross Unruh explained that they have different design requirements, a community online system is when a homeowners association is operating it and it’s not part of a larger public sewer system.

Supervisor Lindborg would like the verbiage added in item 6, “prior to decommissioning Kimberwick plant, but after Kimberwick development is hooked into the new systems.”

Vice-Chairman McCaffrey was concerned about Bentley’s language that the sewage is supposed to go to point A, then point B, and then if needed go to point C (Kimberwick) where it started out in the first place and is supposed to be decommissioned.

The Manager explained he had them design it with adequate capacity for Cross Creek and other areas and wants to make sure that he has a place for that effluent to go if he ever needs it. They will be getting rid of the Kimberwick plant, and have a nice area that can be utilized by the residents. The drip system would be placed around the perimeter of the property where the landscape buffers will be located.

Vice-Chairman McCaffrey understood that they were freeing up this piece of ground to become a park, now they may be forced to perk this or retain ground somewhere else. Manager Rambo stated that Bentley would have to obtain ground for sewage usage.

Vice-Chairman McCaffrey noted “page 5” pertaining to Culbertson. Craig Poff explained that any flows from Beaver Creek, Swinehart and Culbertson which cannot be accommodated on the combination of Culbertson and Swinehart properties shall be the responsibility of the applicant to dispose of and may at the option of the applicant result in a loss of dwelling units or the acquisition of additional land. The reason they have this contingency plan in place is because DEP’s high disposal requirements. Mr. Poff guaranteed they will not be using Kimberwick.

Ross Unruh stated they will deal with their sewage on their property and think they can deal with Kimberwick on their property as well, but in case they can’t some of it may have to go on a drip system on Kimberwick that will still permit you to have a park at Kimberwick.

Vice-Chairman McCaffrey explained that the way that they worded their “open space” was that it was unencumbered and anything that is open space is available for sewage disposal if you need it. Ross Unruh answered potentially that was correct.

Craig Poff said that this was taken out of context, the concept is to use the Swinehart open space for sewage disposal to free up Kimberwick for a park and the Culbertson area for open space, with Swinehart being the primary area, there is no benefit to put it any where else, they are only contingency plans if deemed necessary.

Ross Unruh explained they have described this as best as they could with the information they have available. They have full expectation that the Swinehart site will be sufficient to treat most of the sewage. They have a contingency because they haven’t done all the engineering. They do expect to be able to deal with the Kimberwick on their three properties. This was the design of the concept that they thought the Township wanted and they tried to articulate it as specific they could.

Supervisor Lindborg commented about Kimberwick being decommissioned. Ross Unruh noted he was going to add language in to their conditions stating “provided the Kimberwick customers continue to be served.” Supervisor Lindborg agreed that would be fine.

Supervisor Lindborg noted “item 7” and asked that they add verbiage denoting that this is subject to the Township Engineer’s approval.

Supervisor Lindborg noted they had previously discussed the apartments on Route 322 and how they would have an appearance of being lower than the rest of the buildings. Ross Unruh stated that was not feasible that rather than lower the buildings they just deleted one unit and opened up the center of the site. Manager Rambo stated that the apartments on Route 322 will be architecturally different than the other one, they will not be two story facades.

Supervisor Lindborg had concerns about the wording on page 4 “item 2” regarding Culbertson, that DEP regulations may be different from the 262 that the Township wants. Ross Unruh will change the wording to state “ per unit design requirements shall be 262.5 GPD-EDU.”

The Beaver Creek decision and order was the next item discussed. Supervisor Lindborg objected to wording that states that the applicant shall have the right to request additional extensions of time “which request shall not be unreasonably denied,” and would like those words removed.

Vice-Chairman McCaffrey was concerned about the number of apartments and it being intense and exceeding height requirements and would like to see a building removed. Supervisor Lindborg agreed with Vice-Chairman McCaffrey that the view shed would be gone with these apartments.

Ross Unruh wrote in the changes that the Board requested that he make and suggested that the Board make a decision on each Decision and Order separately. Manager Rambo asked that they leave a copy with the Board with the hand written changes. Bentley will forward the final copy onto the Board for their signatures.

Supervisor Lindborg made a motion to accept the Culbertson Decision and Order with the changes that were discussed and written in. Chairman Obernier seconded the motion. Board Members Lindborg and Obernier all voted aye. Vice-Chairman McCaffrey voted nay.

Supervisor Lindborg made a motion to accept the Beaver Creek Decision and Order with the changes that were discussed and written in, but noted that he has reservations regarding too many units. Chairman Obernier seconded the motion. Board Members Lindborg and Obernier all voted aye. Vice-Chairman McCaffrey voted nay.

Supervisor Lindborg made a motion to accept the Swinehart Decision and Order with the changes that were discussed tonight that were agreed upon by the applicant and written in. Chairman Obernier seconded the motion. Board Members Lindborg, McCaffrey, and Obernier all voted aye.

The second item under New Business was the Board of Supervisors is in receipt of the proposed 2004 budgets of which will be available for public review on November 26, 2003 and considered for adoption on December 18, 2003. Manager Rambo noted there is no proposed tax increase and no trash increase for 2004.

The third item under New Business was the opening of bids for the sale of used Township equipment. Manager Rambo opened and read the sealed bids. Bids were received from F. W. Adams, CH & E, Al Gaudino, Hazleton Mt. Laurel Enterprises, Inc., Les' Auto Salvage, Harold Hallman, and Gerald W. Andzulis. Manager Rambo recommended they reject all bids for the motor home because the Township will donate it to Chester County Police Association and also reject the bid for the bush hog. He also recommended they accept the highest bid on all other equipment. Supervisor Lindborg made the motion based on the Manager's recommendations as listed above. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier voted aye.

The fourth item under New Business noted was Christmas with Santa is scheduled for Saturday, December 13, 2003 between 12:30 p.m. and 2:30 p.m. at Friendship School.

The fifth item noted was the Township is finalizing its work with PRINT to provide each Township residence with a map and information of the Township, all of which is made possible through advertisements from local businesses. There were no comments made.

The final item under New Business was to discuss the next course of action with regard to the outcome of the Open Space Referendum vote. Vice-Chairman McCaffrey suggested they look into establishing the additional tax with Berkheimer.

Chairman Obernier noted he went along with the referendum vote because the Board agreed they would not be bound by it. He would like the Open Space criteria clearly written out and would like a vote from the specific people that will be paying the tax. Chairman Obernier will stick to his principles on this tax and vote no. The vote was not clear and people had voted no in one precinct and voted yes in the other.

Supervisor Lindborg was in favor in looking moving forward with the open space tax and would like to see public meetings held for public input.

Vice-Chairman McCaffrey suggested that Manager Rambo look into how and when this tax will be enacted from Berkheimer.

Vice-Chairman McCaffrey made a motion for the Township Manager to look into and possibly establish the Open Space referendum tax on earned income by the end of 2003 year or the beginning of 2004 year. Supervisor Lindborg seconded the motion. Board Members McCaffrey and Lindborg voted aye. Chairman Obernier voted nay.

There was no New Business from the floor so the Chairman moved onto New Business from the Board. Vice-Chairman McCaffrey noted that BVA seeks membership from municipalities as well as the private sector. BVA's charge is \$250 for municipalities to help fund their activities.

Chairman Obernier moved onto Public Comments. Bob Karpovich of Fraser Boulevard commented with regard to the Conditional Use Hearing on the Beaver Creek Estates and the core samples that were taken.

Chairman Obernier then moved onto Open Issues. The first Open Issue was the Cable Franchise review letter. Manager Rambo noted this is under review.

Chairman Obernier moved onto the next item on the agenda regarding the Facility/Park Update. Manager Rambo noted that the construction is finished. The current interest rate is 1.47%.

The Chairman moved onto the payment of the bills for the General Fund (\$135,988.73), State Fund, and Solid Waste Fund. Supervisor Lindborg motioned to pay the bills and Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier all voted aye in favor of their payment.

Chairman Obernier noted upcoming meetings and events as follows:

- Planning Commission meeting, Tuesday, November 25, 2003 at 7:30 p.m.

- Historic Commission meeting, Monday, December 1, 2003 at 7:30 p.m.
- Board of Supervisors meeting, Thursday, December 4, 2003 at 7:30 p.m.
- Parks and Recreation Board meeting, Thursday, December 9, 2003 at 7:30 p.m.
- Conditional Use Hearing, Janiec, Tuesday, December 9, 2003 at 7:30 p.m.
- Public Hearing for Ordinance NO. 03-17 in conjunction with Janiec CUHA, zoning map change, Tuesday, December 9, 2003.
- Municipal Authority meeting, Thursday, December 11, 2003 at 7:30 p.m.

At this time in the meeting the Chairman moved to address items that were passed over until the Manager's arrival. Ordinances and Resolutions was the next item addressed. Resolution No.12-03: Sewage Modular Acceptance for Valley View. Manager Rambo explained this resolution denotes that the sewage modular is complete. The Township has received a letter from the County Health Department noting it to be complete. Supervisor Lindborg made a motion to pass Resolution No. 12-03. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier all voted aye.

Manager Rambo gave the Fire Department report from Wagontown for the month of October. There were no reports from the Fire Marshal, East Brandywine, or Martin's Corner.

The Chairman then moved to address information sent by Thomas J. Anderson & Associates, Inc. regarding the completed 2003 Act 205 Actuarial Valuation Reports for the Uniform and Non-Uniform Pension Plans for acceptance and signing. Supervisor Lindborg made a motion to give the Township Manager permission to accept and sign the completed 2003 Act 205 Actuarial Valuation Reports. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier all voted aye.

The next item addressed was the Township is in receipt of the 2004 SPCA Stray Boarding and Animal Protective Services Contract for signing. Manager Rambo noted that the contract price is \$4,850. Supervisor Lindborg made a motion for the Township Manager to sign the 2004 SPCA contract. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier all voted aye.

The Chairman moved onto address was the Minutes from previous meetings of October 2, 2003, October 16, 2003, October 31, 2003, and November 5, 2003. Supervisor Lindborg motioned to accept the minutes of October 2, 2003 and October 16, 2003. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier all voted aye. The minutes of October 31, 2003 and November 5, 2003 were tabled.

The next item addressed was that Kristen Boldez resigned from the Park and Recreation Board. The Board accepted her resignation.

With no other business to discuss, Supervisor Lindborg motioned to adjourn the meeting at 10:45 p.m. Vice-Chairman McCaffrey seconded the motion. Board Members Lindborg, McCaffrey, and Obernier all voted aye in favor of adjournment.

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