

West Vincent Township  
Board of Supervisors Meeting

December 14, 2015 7:30 PM

Attendance: Chairman Kenneth Miller, Jr., David P. Brown, III, John Jacobs, Stephen Siana of Siana, Bellwoar & McAndrew, LLP, Township Solicitor, Township Manager James Wendelgass and Tammy Swavely Township Secretary.

Chairman Miller called the meeting to order at 7:30 PM.

**Public Comment on Non-Agenda Items:**

Kit Troler, 16 Hunt Hill Road commented on an email sent out to some residents from another person who was saying there was controversy about the Agenda but she had received it via email on Friday as usual.

Mark Krumenacker, 1050 Jaine Lane commented on boulders along Bartlett Lane and asked if the Board thinks they are a hazard.

Chris Peeples, 1611 Kimberton Road commented on the sidewalk to the elementary school and future taxpayer expenses.

Brian Curry, 512 Black Horse Road commented on the annual Park and Recreation Commission Report.

Suzanne Nastase, 120 Windgate Drive thanked Ken Miller for his 24 years of service as a Board Supervisor. She also commented on rumors about employee contracts.

The audience applauded Ken Miller.

**Approval of Minutes:**

The minutes of **November 23, 2015** were unanimously approved on a motion by Mr. Brown and a second by Mr. Jacobs.

**Reports** (full copies are attached):

Township Manager Report: The Township Manager Report for the period ending 11/09/15 was acknowledged as submitted.

Road Master Report: Mr. Miller read the attached Road Master Report for the months of October and November 2015 which was acknowledged as received.

Active Subdivision List: There are no pending deadlines.

**Bills List:** Mr. Brown made the motion to approve the Bills List dated 12/14/15 in the total amount of \$124,689.88. Mr. Jacobs seconded the motion. The Board answered some questions and Mr. Jacobs questioned the Carroll Engineering charge for Black Horse Road construction. Mr. Wendelgass will research what this charge is for to see if the Township should be responsible for it. Mr. Brown revised his motion to remove the \$4,407.51 for the Carroll Engineering invoice for the total bills to be \$120,282.37 Mr. Jacobs seconded the motion it carried unanimously.

### **Correspondence:**

A letter was received from the Phoenixville Regional Planning Committee dated November 25, 2015 stating that it is preparing for the periodic review of the 2008 Phoenixville Regional Plan. The update is necessary due to changes in demographics and membership since the original adoption of the PRP. Mr. Wendelgass stated that this is West Vincent Township's Comprehensive Plan and the PRPC is planning on defraying the costs with 75% of them being covered by a grant. The Board needs to determine if they want to be included in the update of the plan or prepare a separate Comprehensive Plan. The cost is split between the other five municipalities. Sara Shick, 1201 Davis Lane stated that the Township could add what it needed to. Mr. Brown stated that all changes need to be approved by the Township. Mr. Peeples asked why we would use Phoenixville when they just planned a large apartment complex which is not what West Vincent Township would want. Mr. Wendelgass stated that Phoenixville is not doing the Plan in West Vincent Township. The Region has a Comprehensive Plan which the Township belongs to, and because of this, West Vincent Township is less dense and Phoenixville isn't. Any application that goes to the PRPC is reviewed but the review is non-binding. Mr. Brown explained the benefits of belonging to a Regional Plan. In Pennsylvania, every township is required to have every land use, for example, trailer parks. When you belong to a region, if one of the townships have that kind of zoning, then not every township in the region is required to have it. Thomaseth Dulchinos, 1415 Hollow Road asked if the Board would be able to explain the benefits of belonging to the PRPC. Mr. Brown stated that it would be better suited for a special meeting and not this evening. Ms. Shick stated that Ed Theurkauf, the Planning Consultant for the PRPC has offered to explain it to the Planning Commission and may be a good idea to have at one of those meetings. The Board will review this letter and consider it at their next meeting.

Mr. Wendelgass informed the Board that the steps in the park are dangerous and need repair. A proposal was received from CAPA Builder's Inc. Several other contractors were contacted but the Township did not receive any quotes from them. Mr. Brown made the motion to accept the proposal from CAPA Builder's Inc. in the total amount of \$10,500. The Board heard some comments from the audience and the motion carried unanimously.

A request to use the meeting room was received from the Chester County Conservation District dated December 8, 2015. They are working on setting up a workshop and would like to use this facility for a meeting in this area of the county. Mr. Brown made the motion to permit the same on March 9, 2016 from 8:00 AM -3:00 PM. Mr. Jacobs seconded the motion which carried unanimously.

The Board received notice from the Zoning Officer that a Cease and Desist letter was sent to Marc and Maureen Duey, 2105 Conestoga Road at the intersection of Route 401 and Dewees Lane for

using their property as a commercial recreational facility in a residential district. Mr. Duey spoke to the Board stating that he apologizes for any concerns and inconveniences and that the facility he has constructed is enjoyed by his seven children and a lot of friends. He stated that on December 5, 2015 he did have an event for the Cross Fit Gym who was having a fund raiser but he has contacted his attorney and will submit a response, anticipating a full resolution. He added that everyone who uses the facility signs waivers and no one has been hurt yet. Mr. Miller stated that a variance will need to be filed with the Zoning Officer.

Steve Meyer, Park and Recreation Commission has submitted a Resignation letter effective immediately. The Park and Recreation Commission have submitted a recommendation for Whitney Jaeger to take his place. The Board also has in front of them the other Commissions and Committees recommendations before them for 2016. All who are up for renewal of terms have agreed to be reappointed. The Board will review these and consider them at their next meeting.

A request to use the meeting room was received from the Northern Chester County 4-H Horse and Pony club. Mr. Brown made the motion to permit the same every other Sunday beginning on January 10 through March 20 from 8:00 AM -3:00 PM. Mr. Jacobs seconded the motion which carried unanimously.

### **Subdivision/Land Development:**

Eagle Farms Subdivision/Toll Bros.: Toll Bros. has requested Surety Reductions on a Performance Bonds and Carroll Engineering is recommending their release. Mr. Brown made the motion to approve Release #2, Sanitary Sewer Spray Field, Phase 2A in the total amount of \$122,266.60. Mr. Jacobs seconded the motion, there was no public comment and the motion carried unanimously.

Alyson Zarro, attorney for Toll Bros. and Lennar for the Eagle Farms Subdivision came to the Board requesting the Board formalize the transfer of responsibility from Orleans Home Builders to Lennar Homes. She is requesting a Third Amendment to the Development Agreement and a Second Amendment to the Financial Security Agreement for the Ewing tract. Mr. Siana has reviewed these documents and are suitable for the Township. The bonds will change from Orleans to Lennar in the total amount of \$4,488,111.71. Mr. Brown made the motion that the Amendments be accepted as presented this evening by Ms. Zarro. Mr. Jacobs seconded the motion. There was no public comment and the motion carried unanimously.

### **Old Business:**

Declaration of Restrictive Covenant on 1359 Pottstown Pike: The Township owns a piece of property that is 16.67 acres along Route 100. Mr. Siana prepared a conservation easement restricting the parcel to agriculture, waste water treatment disposal, the Township hunting program and active recreation. French and Pickering Conservation Trust, Inc. has prepared a Conservation Easement Preparation and Processing Agreement which will allow it to prepare a baseline documentation and maps of the property. The cost is \$5,000. Pamela Brown stated that the Township will not be charged any more than that amount. There is a one-time Stewardship Donation of \$10,000 which helps with the yearly inspections. Mr. Brown made the motion that the

Chairman of the Board be authorized to execute the Grant of Greenway Land and Conservation Easement and Declaration of Restrictive Covenants and the Conservation Easement Preparation and Processing Agreement with French and Pickering Conservation Trust, Inc. Mr. Jacobs seconded the motion. Jamie Farnham, 2665 S. Chester Springs Road asked why the Township needs more sewage disposal. Mr. Jacobs stated that we do not need it now, but it is reserved for the future needs. Mr. Miller stated that at one time the Township thought it might need more in the Ludwig's Corner area but since then DEP has lowered its requirements and now the Township has a sufficient amount. In addition to that, the Township is considering licensing the sewer plants and the buyer would only be interested in the plants, not land. If the plants do not sell, then this land is a safety valve. The Park and Recreation Commission looked at the land last week to see what could be done as far as active recreation. This land is for long term planning. Suzanne Roth asked if the Board has read the covenants. Mr. Miller stated that he relied on the word of the Trust. Mr. Wendelgass stated that this is similar to all of the other easements that the Township already has. George Dulchinos, 1415 Hollow Road asked if it costs anything to the Township. Mr. Miller stated only the one-time payments to the Trust. Maria Jacobs, 2351 Beaver Hill Road asked why the Township has to protect something that it already owns. Mr. Miller stated that the Township can control what goes on the property. Mrs. Dulchinos stated that this would be consistent with the Phoenixville Regional Plan. Mrs. Nastase asked why protect the land along a growth area. Mr. Miller stated that this land is not in the Ludwig's Corner growth area, it is zoned residential. Barbara Mueller, 1026 Jaine Lane stated that just because the 50 people in the room tonight do not want to develop it that 50 years from now the residents will feel the same. This will be saved in perpetuity. Mr. Miller asked Mrs. Brown if there was a clear fee. She stated that yes, a flat fee of \$5,000 plus the \$10,000 for the Stewardship donation. There was no further comment and the motion carried unanimously.

Settlement of Arbitration with Police Bargaining Unit: Mr. Wendelgass stated that the Board has in front of them a Memorandum of Understanding (MOU) between the Township and the West Vincent Police Officers' Association. There was a dispute that was going to arbitration but it was settled. The Township is now offering two benefit plans in which the police are allowed to participate. The MOU also addresses contributions to the plan and the Cadillac Tax that goes into effect on January 1, 2018. There is language in the document stating that if the plan is subject to the Cadillac Tax, the Township can reopen the contract. Mr. Wendelgass gave a brief description of what the Cadillac Tax is. The Federal Government has instituted this tax as part of the Affordable Care Act. If the Health Care Plan is over a certain figure than the employer is taxed. The language in the Memorandum protects the Township. Mr. Brown made the motion to approve the Settlement of Arbitration with Police Bargaining Unit. Mr. Jacobs seconded the motion. Mrs. Jacobs asked for an explanation. Mr. Wendelgass stated that the police filed for Arbitration under their Collective Bargaining Agreement which they are permitted to do. As a result, the Board has decided upon a settlement. The Township agreed to provide an alternative health plan The settlement states that employees would not be required to contribute to the cost of this plan only. Mr. Siana stated that there is a provision that permits the contract to be re-opened to address the Cadillac Tax should it become an issue in 2018. Suzanne Roth, 1360 School House Lane asked what the Township is paying for. Mr. Jacobs stated that the police do not have to contribute to their health care. Mr. Wendelgass added that there are targets and if they hit those, the police will have to contribute to their health care. The Cadillac Tax is a separate issue. Ms. Roth asked if the Township is acting like a big corporation and providing health care for its employees. Mr. Siana

stated that he is not aware of any municipality that does not pay for health care for its employees. Mr. Wendelgass stated that this is binding arbitration. Chip Farnham, 988 St. Matthews Road asked what the police were asking for. Mr. Wendelgass explained that they wanted an alternative health care plan to choose from. The MOU does not relate to the old health care plan. Ms. Roth asked about the health care plan. Mr. Wendelgass stated that it is a lot to describe and each officer made an individual decision. Mr. Jacobs stated that the Affordable Health Care Act is difficult and hard to guess as to what the future holds. Mr. Wendelgass stated that this plan, in two out of three categories, is less to the Township than the other plan. Karl Brachwitz, 1286 Hollow Road stated that it sounds like the Board of Supervisors did its job. Mr. Miller called for a vote which was unanimous.

Request for Qualifications: The Board desires to sell the Township sewer plants. Mr. Siana discovered that it would be better for the Township to have a licensing arrangement. The company would not be paying for the assets or the ground but for a revenue stream. The Township was reluctant to give up the ground and going into a licensing agreement would allow it ownership of the property. This covers the entire Township and includes a three year price freeze and an income stream for future housing. If the Board elects to put this out to bid, it is not bound to accept it. Mr. Peebles asked if the company leaves, would the Township be liable. Mr. Siana stated that the Licensee would be liable and they must conform to all DEP regulations. Mrs. Trolier asked what the income stream would be. Mr. Siana explained that there is an initial payment that resembles a purchase and then there is a minor licensing fee that runs the duration of the license. The Licensee would have all rights to the property except the title. Mrs. Trolier asked if the Licensee would be able to subdivide the property. Mr. Siana stated that not only is all the land that the Township have deed restricted, but the Licensee would not have ownership. John Stoudt, 309 Sundance Drive asked what kind of control there would be on an escalation in pricing. Mr. Siana stated that the Public Utility Commission would handle that. Mrs. Nastase asked what would happen to the reserve funds. Mr. Siana stated that the Licensee would have to pay for all of them. Mr. Brown made the motion to authorize sending the RFQ out in the form presented to them this evening. Mr. Jacobs seconded the motion. David Pomanto, 289 Black Horse Road asked if this will be a private company and he was told no, it would be a PUC regulated company. Mrs. Mueller asked if the trails on the land would still be able to be used and she was told yes. The motion carried unanimously.

### **New Business:**

Acknowledgement and Release of Burch TDR's. Mr. Siana stated that the Township has been asked to acknowledge the release of the TDR's from Robert Burch's property to French and Pickering Creeks Conservation Trust. The TDR transfer has previously happened, and there now needs to be a recordable instrument. Mr. Jacobs made the motion that the Board approve the Chairman to sign along with the Township Secretary the Agreement between Robert Burch and French and Pickering Conservation Trust, Inc. and Acknowledged by West Vincent Township. Mr. Brown seconded the motion. There was no public comment and the motion carried unanimously.

New Lot Line Application: A new Lot Line Application was received from Laymen's Home Missionary at 1156 St. Matthews Road, Chester Springs, PA. Mr. Wendelgass stated that this is a

minor lot line change and once acknowledged by the Board, a clock will start per the Municipalities Planning Code. Mr. Brown made the motion that the Board acknowledge receipt of the Lot Line Change from the Laymen's Home Missionary. Mr. Jacobs seconded the motion which carried unanimously.

New Collective Bargaining Agreement with AFSCME: Mr. Wendelgass stated that the Township negotiated a new Collective Bargaining Agreement with AFSCME, which represents the Road Department, the Township Building Department Clerk, Seasonal Employees and the Police Secretary. This is the third contract since its inception and this one is a four year contract to be effective January 1, 2016 through December 31, 2019. There is a 3% increase in wages each year. The Township provides health care to employees but to the extent that the cost of medical coverage exceeds 105% of the prior year's cost, employees will be required to pay a percentage of the additional costs. The Cadillac Tax is addressed so that it will not have to be reopened. There is a severance schedule included and the agreement. Mr. Jacobs stated that the agreement is basically the same as it has been in years past with the exception of severance. Mr. Wendelgass stated that the Board discussed this at length and this is what they agreed to. Ms. Roth asked how many people are involved in this contract and she was informed that there are seven. Maurice Kring, 2323 S. Chester Springs Road stated that he feels it is strange for the add severance and asked if other local townships have it. Mr. Miller stated that he was informed by the Solicitor that the new Board can rescind the agreement if they so desire in the new year. Art Ewell, 972 Fellowship Road stated that the current contract could be extended until a new one is agreed upon. Mr. Brown stated what is important with the severance is that it only applies if a department is done away with, not if an individual is terminated for cause. Mr. Siana stated that AFSME asked for a lot more, and this is what they got. Jane Altmann, 276 Black Horse Road stated that severance was not the norm. Mrs. Nastase stated that people voted for a change of Supervisors and the new Supervisors may want to do things differently. Mr. Brown stated that the Board has an opinion from counsel that the new Board can change it if they so desire. Mr. Kring stated that since the change is so big that the new Board should handle it. Mr. Brachwitz stated that he hears much discussion about what the Board wants to do, but he is disappointed that the audience is not supporting the people who work for the Township. Sue Miller, 2573 Horseshoe Trail stated that the Road Department works tirelessly 24/7 during snow storms and puts their life on the line many times and never question it. They are a value to the community. Tanya Helwig, 2034 Pottstown Pike asked if the medical coverage is included in the severance and she was informed it was. Mrs. Jacobs stated that she echoes the others saying there is no desire to get rid of the Road Department but this contract is similar to the Police Contract where medical benefits are included. Mr. Wendelgass stated that this contract is more specific with regards to the health plan. Mrs. Jacobs asked what happens when a similar health plan is not available. Mr. Wendelgass stated that there is language in the agreement to protect the Township. Mike Schneider, 230 Trego Road stated that he wants to go on record since he will be coming in as a Board of Supervisor in 2016 that he has no intention of getting rid of the Road Department. Ms. Roth asked how long ago the union was formed and if the employees are not getting a fair wage and an annual raise, why would the severance section be necessary. Mr. Wendelgass stated he thinks it was 2008 or 2009. Mr. Brown stated that there is a perception that the new Board would eliminate the Road Department and that

is why severance was included. He added that the Board did discuss it in Executive Session and no one wants to eliminate the Road Department. Mr. Jacobs agreed. After a further discussion Mr. Miller made the motion to go into Executive Session. Mr. Brown seconded the motion which carried unanimously. The Board went into Executive Session at 10:00 PM. The Board returned at 10:30 PM. Mr. Miller stated that the Board did not make a decision but would have an additional Executive Session on a later date. Since the next item in the Agenda was a contract for Police Chief Swinger that was tabled until the next meeting, December 28, 2015.

Meeting adjourned 10:30 PM

Respectfully Submitted,

Tammy Swavely  
Township Secretary