

**West Vincent Township
Board of Supervisors
Meeting**

February 18, 2020 7:00 PM

Attendance: Mike Schneider, Chairman; Bernie Couris, Vice-Chairman; Sara Shick, Member; Mike Walko, Solicitor; Erica Batdorf, Township Manager; Kathy Shillenn, Township Secretary

Chairman Schneider called the Meeting to order at 7:00 p.m.

Mr. Schneider announced that Executive Sessions were held on January 29, 2020 at 1:00 pm, February 5, 2020 at 10 am and February 18, 2020 at 10:30 am to discuss Personnel Matters.

MOTION by Ms. Shick to approve the minutes of January 21, 2020; second by Mr. Schneider. *Motion carries 2-0-1 with Mr. Couris abstained.*

MOTION by Ms. Shick to approve the minutes of the February 3, 2020 Workshop; second by Mr. Schneider. *Motion carries 3-0.*

Police Report: Chief Swinger read the report. Report acknowledged as received.

Bills List: **MOTION** by Mr. Couris to approve the Bills List in the amount of \$181,634.81; second by Mr. Schneider.

Brian Curry, 512 Blackhorse Road noticed that \$14,000 was going to Reclaim for the demolition. About what percentage of completion is this? Ms. Batdorf stated that it is 2%.

With no further questions or comments, *Motion carries unanimously.*

Treasurer's Report: Ms. Batdorf reviewed this report. These reports are for the period ending 12/31/19. The Balance Summary is on the first page, in addition, to the following page which is the budget to actual summary by fund to look at the variance to budget. These figures are being audited right now. All of the funds, General Fund, Open Space Fund, Liquid Fuels, Capital Fund, Escrow and Sewer Funds come to an accumulative total of \$10, 417,764.99. For the Budget to Actual Summary by Fund for the year 2019, note in the general fund on the right hand side of the page, in terms of revenues, we are at 99% of budget. There is a 1% variance there. In terms of expenditures, the township has \$387,000 under the budget expenditures for the year. This is related to the Fellowship Trail project, which did not come to fruition, as well as Bryn Coed expenditures budgeted for amenities and also a contingency on the demolition which did not come to fruition within the budget period for 2019. The estimated net income for 2019 is \$351,292.00, subject to our audit.

Regarding the Capital Fund, the township is drawing on reserve funds for various projects within 2019. Due to that, the revenue, looking at the actual audit, since those monies are reserve funds, will be seen as a deficit. Those expenditures are \$399, 952.00. This is less than budgeted.

The Open Space Fund had 7% above actual on revenue; spending is below figures that were estimated due to the demolition project taking place this year. In Liquid Fuels, the township received the state allocation and spent down almost the exact figures; there are a few expenditures over the budgeted amount for 2019. For the Sewer Fund, the \$55,000 figure was taking into consideration the Courts of Chester Springs Sewer Plant which we thought would be turned over to Bucks County Water and Sewer Authority mid-year, but the township is still working through the process. The detailed ledger is also provided for the finances for the December period and the budget period in full.

Manager's Report: Ms. Batdorf reviewed her report. The Township held a well-attended Seed Swap event on Saturday, January 25th. It was sponsored by the Township Sustainability Committee and the Chester County Agricultural Coalition. The Parks & Recreation Commission's Community Day Sub-committee is working on this year's event which will be Saturday, June 13th from 10 am to 3 pm. There will be programs and activities similar to previous years as well as a 5K Walk/Run at 8:30 am. Plans are underway for the first annual township-wide Earth Day clean-up event that will be held during the third weekend in April. There will be roadside litter cleanup, stream beds, woodlands, and educational opportunities planned. The next volunteer meeting will be February 25th at 5:30 pm at the township building.

In the Building and Zoning Department there were 21 permit applications that were processed in the month of January; as reported for the Finance Department, the year-to-date actual December 2019 reports are complete and the auditing firm has completed their fieldwork. In January, the Public Works Department completed several PA One Calls and graded several roads, Beaver Hill Road, Bartlett Lane, Blackhorse Road, St. Andrews Lane, Red Bone Road and filled potholes on several roads, including Flowing Springs Road and Hilltop Road and salted and plowed roads in response to a winter event. As potholes emerge, please let the township know of the locations and contact PennDOT for state roads at 1.800.FixRoad. Also, the Bryn Coed Demolition project is underway. Silos are down; building one, which is the center building and the cow palace columns are down.

Brian Curry, 512 Blackhorse Road commented that on the Blackhorse Road dirt side he hasn't seen a crown that good in years. The surface almost looks like it is rolled; it's really impressive what the road crew has done on this road.

Announcements: None.

Correspondence: Mr. Schneider read several Thank You letters to that were sent to the Police Department. One was a thank you for find a lost dog, another for help with a road closure for a movie filming and also a letter of appreciation from the Upper Uwchlan Police Department.

Brian Curry, 512 Blackhorse Road asked what road was closed. Ms. Batdorf stated that it was Flint Road.

Presentation: None.

Subdivision/Land Development:

Weatherstone Town Center Phase I – WaWa Final Escrow Release Request – MOTION by

Mr. Couris to approve the WaWa Final Escrow Release Request in the total amount of \$432,419.00; second by Mr. Schneider.

With no comments or questions, *Motion carries unanimously.*

Natural Lands Flint Road Parking Lot – Final Escrow Release Request – MOTION by Ms.

Shick to approve the 1805 Flint Road (Natural Lands) Escrow Release No. 3 (Final) in the amount of \$18,890.11; second by Mr. Couris.

With no comments or questions, *Motion carries unanimously.*

Zoning Hearing Board Application – Flather Lot, 1147 Hollow Road – Acknowledge Receipt

– Receipt acknowledged by the Board. The Zoning Hearing is scheduled for March 31, 2020 at 7PM.

352 Blackhorse Road Subdivision & Land Development Application, Resolution of Approval

– **MOTION** by Mr. Couris to approve Resolution No. 10-2020 for the Final Minor Subdivision Plan for 352 Blackhorse Road; second by Ms. Shick.

Adam Brower, E.B. Walsh thanked the Board, on behalf of the applicant, for the Resolution of Approval.

With no comments or questions, *Motion carries unanimously.*

Old Business:

Anti-Discrimination Ordinance Proposal, Chris Carroll – **MOTION** by Ms. Shick to authorize

the Solicitor to draft an Anti-Discrimination Ordinance; second by Mr. Couris. Mr. Carroll brought this before the Board a couple of years ago and feels it's time for the Township to step up and do the right thing. He feels that the township should follow what other municipalities have done. Mr. Carroll stated that it doesn't grant anyone special rights; it basically brings the code up-to-date. There needs to be a method to step in before discrimination happens.

Jim Hanna, 1152 Hollow Road asked if Mr. Carroll could expand on this. Mr. Carroll discussed some issues that could possibly happen. Solicitor Walko explained that there are two ways to bring discrimination claims. One is Federal and one is State; under both of these there are certain classes of people that are not protected status. Municipalities are passing ordinances to fill in that gap to protect certain classes of people.

Karl Brachwicz, 1286 Hollow Road commented on the idea that the township is going to create a safe shelter for someone when it's the federal and state governments that have authority. The township is not more powerful than the federal and state government. Would this affect people and businesses within West Vincent Township or just employees that work for West Vincent Township? Solicitor Walko stated that this would affect people that work in West Vincent Township. Solicitor Walko stated that the PA Human Relations Commission does provide remedies to allow local municipalities to form these commissions. They cannot exceed the powers granted by the PA Human Relations Commission. More discussion ensued. Mr. Brachwitz feels that the township should not be involved in this. It is a feel good policy. Put the energy into the federal government regulating this.

Martha Thomae, 89 St. Andrews Lane commented that just because something hasn't happened doesn't mean it can't. There have been some incidents that haven't been brought to the township. She feels the township needs this just to remind people.

Barry DiLiberio, Business Owner - Pottstown Pike stated that his fear is that business owners have to deal with perception. It is not the township's issue. He is against the ordinance.

Chris Carroll, 1021 St. Matthews Road stated that the National Assoc. of Realtors adopted this policy. He feels there is a major excuse here. Buy proper insurance and move forward.

Brian Curry, 512 Blackhorse Road asked the Solicitor about the issue of perception. In litigation, where is the line on how it is determined whether it's the business owner's perception. Solicitor Walko stated it is determined through investigation. Mr. Curry asked what the criteria is that an investigator is looking for to determine discrimination. Solicitor Walko stated that they would have to look at the facts to see if a negative action was done. Mr. Curry sees this as having lawyers involved and it will be a litigation hole.

Mr. Schneider stated that he has a problem with the gender identity. He has heard that people get fired over the use of pronouns. Does that apply? Does the employer have to deal with using the wrong pronoun? The gender identity thing is a self-perception.

Julie Foster, 1682 Hilltop Road is a lawyer and wanted to share her experiences. She discussed determining adverse action. She has a business in Lower Merion and has been under this kind of ordinance for a long time. She thinks her employees like it and are made to feel welcome. She has litigated cases and having these kinds of rules on the books actually lowers this kind of litigation.

Barry DiLiberio, Business Owner Pottstown Pike said that Mr. Schnieder brought up what he was going to bring up. He can't identify someone if they believe there are something else.

Jim Hanna, 1152 Hollow Road is looking for some kind of clarity. Regarding the commission for the township; when someone files a violation complaint where does that go after it goes to the commission? What is the judicial weight of the commission? Is this ordinance intended to catch all the things that are not covered by the Human Relations Commission and EEOC?

Beth Brindle, Chief of Staff for Danielle Friel Otten addressed the point about this being addressed at the state level. There are bills sitting in committees; some years ago the state of Pennsylvania did put in anti-discrimination language for state employees. State agencies cannot discriminate on anything we're talking about. Mr. Hanna asked if energies would be better being spent at the state level. Ms. Brindle stated that sometimes policies have to come from the ground up. Mr. Hanna asked what would happen when all these ordinances bang into each other. Is there a template that we are using?

Karl Brachwicz, 1286 Hollow Road stated that there are different models out there but are generally the same ordinance. He doesn't have issue with different categories; his issue is with the different commissions; if anything ever comes up, we will have a group of people who are

not qualified and have no experience, no rules set up. We're chasing a rabbit down a hole. The township is not the place for this.

With no further comments or questions, *motion passes 2-1 with Mr. Schneider voting no.*

Dog Park Proposal - Mr. Carroll discussed this proposal. He has been lobbying for a dog park for several years. Some residents do not have land to let their dog run free. Our township needs a fenced in dog park, there is plenty of land. This needs to happen. One for large dogs and one for small dogs. The township should use some of the land from Bryn Coed and dedicate the space for dogs to play in a safe environment.

Mr. Couris stated that he has researched this over the past couple of years. There was an outpouring of desire in Weatherstone I and it turned out that we just didn't have the land. In regards to Bryn Coed, we might not be able to use it depending on the way the easement is written. He reached out to the attorney for Natural Lands, who holds the easement, but she was on vacation. Mr. Carroll stated that he needs support from residents.

Brian Curry, 512 Blackhorse Road stated that at the last two Park & Rec meetings, dog parks were discussed. He suggested Mr. Carroll attend a Park & Rec meeting to talk about it and present his information.

New Business:

Chester County Vision Partnership Program Grant Application Letter of Commitment - Master Park & Trail Plan - MOTION by Ms. Shick to approve the \$15,000 match for the Chester County Vision Partnership Program Grant Application Spring 2020 Round; second by Mr. Couris.

Ms. Shick stated this is a proposal to do a master park and trail plan for the township. We are applying now for the grant and will solicit a vendor of consultants if we get the money.

With no comments or questions, *Motion carries unanimously.*

Ready for 100 Resolution Supporting 100% Renewable Energy Future by 2050 - MOTION by Mr. Couris to approve Resolution No. 12-2020, the Ready for 100 Resolution in Support of a 100% Renewable Energy Future by 2050; second by Ms. Shick.

Mr. Schneider stated that he has a problem with this. None of the experts have confidence that it's even feasible to get to 50% by mid-century and we are thinking that we are going to get to 100% by 2050. It seems almost impossible to do. If it was written in a way that made some sense or had some accountability to it, I could support it, but I can't support it the way it is written.

Ms. Shick commented that this resolution was drafted by the EAC and fully supported by the Sustainability Committee. It was discussed at great length at the February workshop. The first step is a study. Mr. Schneider stated that it should not say 100% because it's not possible; the resolution actually reads to support 100% renewable energy by 2050. No expert out there would say that's possible, yet we are going to sign something committing to this, it's just wrong.

Jim Hanna, 1152 Hollow Road feels that the presentation that the folks gave at the February workshop could have been much better prepared. He doesn't feel that they answered a lot of the questions that the township residents had. What is the force of supporting this? He agrees with Mr. Schneider 100%. What is it binding us to?

Ms. Shick stated that it's a scope, it's a goal, not a mandate. What are the things that might benefit the Township business and township residents in reducing energy use? Mr. Schneider asked why the Sustainability Committee isn't looking into goals that are achievable.

Mr. Hanna stated that he's not worried about what other municipalities are doing. If West Vincent Township says that it decides that it's cost effective to be 100% renewable in the township, you can't compel all the residents to put geothermal systems in their homes. He feels that the township is signing up with the cool kids. What will be the force of law down the road? Mr. Couris said the Mr. Hanna is speaking as if it's a mandate; it's not a mandate.

Ted Mollegen, 1201 Davis Lane stated that what Mr. Schneider quoted about getting to 100% by 2050 is wrong. Geothermal is a wonderful way of lowering where we are. The physical environment is very conducive to geothermal.

Donna Delaney, 2147 Beaver Hill Road grew up in the sixties and we got to the moon; did a lot of things that were not possible. This negativity is upsetting. Scotland and Portugal exceed in production of their energy supply. For Americans to sit here and say we're too stupid to do it by 2050 when other countries are doing it is very discouraging.

Kathy McDevitt, 50 Barrington Lane stated that she was one of the presenters at the workshop meeting, a township resident and a Sierra Club member. At the workshop you asked why we just didn't submit a plan; it's a very complex problem. This resolution says that we want to set a goal. Climate change scientists' say that's what we need to do. It says we need to create a team to make a plan. Mr. Schneider agrees; we have a sustainability committee that should be charged with this. Ms. McDevitt says the point of this resolution is to say we want to set this goal, create a team, and to make a plan.

Kip Archinal, 919 Fellowship Road stated she would like to correct the gentleman in the back. She has geothermal at her house. When the temperature goes below 30 degrees, all the electric tubes goes on. The house only gets to about 60 degrees when the temperature is about 40. In February the electric bills are huge. The Board is supposed to be voting on this Resolution for 100% renewable energy tonight. It has grammatical errors and hellacious facts in it; it should be corrected before it's passed. Ms. Archinal spoke about #3, which addresses the board of supervisors providing guidance. She thinks the township has enough committees already. She spoke with the Sustainability Committee about what she was going to say. The Sustainability Plan was created 10 years ago and already has initiatives and it has been revised three years ago. There's no reason why we can't add initiatives and have half of the committee work on these initiatives. They could work with the Environmental Advisory Committee and combine all the things that are being talked about.

Brian Curry, 512 Blackhorse Road said there were no breakthroughs required for the moon launch; it was engineers and a lot of money. To get to 100% renewable energy you need

breakthroughs. You need breakthroughs in a way to store the energy. He has a feeling this will go the way of the multi-modal plan. We had a consultant for the multi modal plan and it was not implemented. Mr. Curry asked if Mr. Couris would vote for this if it had a false statement in it; Mr. Couris said yes. Ms. Shick stated that she also would vote for this.

Donna Delaney, 2147 Beaver Hill Road wanted to confirm with the Sustainability Committee.

Julia Braendel, 2472 Flowing Springs Road has a couple of questions. We have solar, wood burning, propane back up. Are you telling me in 2050 that I would not have the right to choose how I'm going to heat my house? Ms. McDevitt said the goal is to have 100% renewable by 2050 for heating. We would provide advice on how to do it without using propane. Ms. Braendel stated that even with geothermal you cannot heat your house just with geothermal, you need backup. Do you want to make the promise now?

Solicitor Walko said to be clear this is a resolution not an ordinance. Ms. Braendel stated that what if you don't want to switch. Mr. Schneider stated that you may not have a choice. Ms. Braendel agreed and said that's why government shouldn't get involved.

Barb Van Horn and Yvonne Brownlee, Sustainability Committee stated that the Sustainability Committee did not volunteer to run this program. Ms. Brownlee said that they listened, we think it's a reasonable idea. This is a goal, an idea; something to work towards.

Ted Mollegen, 1201 Davis Lane stated that a few minutes ago a women talked about a geothermal system that didn't work. That system was either badly designed or it's not working as it was designed to work. There are plenty of geothermal systems in West Vincent that work at 0 below.

Brian Curry, 512 Blackhorse Road stated that he agrees with Mr. Mollegen. There's talk about milestones. When will they be developed? It says that we will have reports every six months. Everyone in this room could have 100% solar; he's been on 100% carbon free power for years because he stuck with PECO. PECO has nuclear power plants. The same people that are advocating for this will shut down the nuclear power plants.

With no further comments or questions, *motion carries 2-1 with Mr. Schneider voting no.*

Fair Districts PA Resolution Supporting an Independent Redistricting Commission - MOTION by Ms. Shick to approve Resolution No. 11-2020 in Support of a Citizen's Commission for Legislative and Congressional Redistricting; second by Mr. Couris.

With no comments or questions, *motion carries unanimously.*

Bryn Coed Project Change Order #3 - MOTION by Mr. Couris to approve the Bryn Coed Demolition Project Change Order #3 using Option #2; second by Ms. Shick.

Ms. Batdorf discussed information on the two option selections. Lowell from Arro Engineering and Andy Emery from Reclaim Co. are present to discuss this. Lowell stated that additional asbestos was discovered between the block and the beams. Due to this discovery, there needs to be steps taken to address that. Ms. Schneider asked which option would be better for the township. Mr. Emery stated that he feels that Option #2 would be a fair format for the township. Option #2 would be cheaper and be disposed of at the proper landfill. There won't be an official asbestos manifest. Terry Devine, Chester County Solid Waste Facility stated that

they would be satisfied with this option. Lowell stated that it will be a document verifying that the asbestos went across the scale and was properly managed.

With no comments or questions, *motion passes unanimously.*

Bryn Coed Demolition Project - Payment Recommendation #2 - MOTION by Ms. Shick to approve the Bryn Coed Dairy Complex Demolition Payment Recommendation #2 in the amount of \$147,870.46; second by Mr. Couris.

With no comments or questions, *motion passes unanimously.*

Bryn Coed Demolition Project - Open Space Maintenance Fund Transfer - MOTION by Ms. Shick to approve the plan of reimbursing the Open Space Fund with Capital Reserve Funds for expenses associated with the Bryn Coed Demolition Project, in April of 2020 in accordance with the process outlined in Section 3232 (f) of the 2nd Class Township Code; second by Mr. Couris.

Barry DiLibero, Business Owner Pottstown Pike asked what exactly does that mean. Ms. Shick stated that we will be paying for the demolition out of the general fund instead of the open space fund. Mr. DiLibero stated that he thought that it was supposed to come from the open space fund, isn't that what was agreed to. Ms. Shick stated that as a new supervisor she requested to reopen the budget and this is what she is recommending. Mr. DiLibero asked why. Ms. Shick stated that West Vincent voted to tax themselves to save open space not tear down. People on the former board wanted a moratorium on open space until they found out what the cost of the park would be and the demolition would be. The demolition costs are going up again. Open Space Committee has been hampered by the board to save any open space. Mr. Schneider said that taxpayers voted many years ago to be taxed for open space. They did not say that they want to be taxed for open space and take property taxes for open space. A discussion continued. Mr. DiLibero asked what other thing in the budget has its own separate tax besides open space. What is the budget for the roads department every year? Ms. Batdorf said that it's 1.5 million in 2020.

Donna Delaney, 2147 Beaver Hill Road as a resident of the township she said that as a taxpayer she is really cognizant of her taxes. She appreciates the benefits of open space protection. When she voted for these referendums, she did not vote for demolition of buildings.

Jim Deisinger, 1030 Linden Avenue stated that if you go ahead and shift the money and if Weatherstone HOA is fortunate to recover some of its capital reserve money, where would that money be taken from. Mr. Schneider said it would come from the general fund.

Maria Jacobs, Non-Resident had a couple of questions. One, you started a workshop meeting so this type of conversation could come up in front of the public and have a public forum prior to voting. Why is this jumping that scale? Secondly, can someone review when Bryn Coed was purchased and the requirements that these buildings come down that was part of the purchase? Let's go backwards and review some of the history. With trying to move these funds and take away from the road program, I think you're missing the point of when Bryn Coed was purchased.

Brian Curry, 512 Blackhorse Road commented for Ms. Delaney that the air has been getting significantly cleaner since the 1970's. Several administrations ago, there was a comment about having a reserve fund. He remembers when the township had a special assessment because the

township had a big suit against it. Mr. Curry stated that the sale of capital assets is not a windfall.

With no further comments or questions, *motion carries 2-1 with Mr. Schneider voting no.*

Martin Luther King, Jr. Holiday for Township Employees – MOTION by Ms. Shick to approve the Martin Luther King, Jr. Holiday for Township Employees; second by Mr. Couris.

Brian Curry, 512 Blackhorse Road asked if this adds a holiday or is being exchanged for another holiday. What is the financial impact of this? You have people that are not working.

Karl Brachwicz, 1286 Hollow Road commented that the township is not going to exchange for another holiday; the township is going to have two days off in January a week apart. So this was brought about because someone thought they didn't have enough days off or is it a political thing. He thinks it's a bad idea.

Art Ewell, 972 Fellowship Road asked since we have a union, and you declare a holiday has this been negotiated with the union. Solicitor Walko stated that just because it is a township employee holiday, it doesn't have any impact on the contracts themselves.

With no further comments or questions, *motion carries unanimously.*

Public Comment on Non-Agenda Items:

Mr. Couris would like to make a proposal that we implement a two minute rule. Solicitor Walko stated that it's proper to apply a two minute rule as long as it's applied uniformly. Ms. Shick suggests that it not be applied to the workshops.

Karl Brachwicz, 1286 Hollow Road asked Mr. Couris if his complaint is that the meetings are taking too long.

Mr. Schneider asked if we do the two minute rule, could we extend the minutes? Solicitor Walko stated that you should not use it to silence residents. He would also comment that it's public comment. A lot of boards do not accept public comments. Ms. Shick feels it's the public comment that should be timed.

Brian Curry, 512 Blackhorse Road asked if that applies to presentations made by outside organizations. What does it take to get on the agenda? Are there restrictions?

Harriet Stone, 1645 Birchrun Road stated that the amphibians have not started migrating yet, but if anyone wants to help, contact her.

Bob McDevitt, 50 Barrington Lane commented that in the West Brandywine Township Building they have a nice plaque recognizing eagle scouts in the township. He is putting together a fundraiser and proposal for hanging a plaque recognizing eagle scouts in the township.

Wheeler Aman, Pughtown Road commented that for many years he's been trying to get a solution to the water problem on Ford Road. The township has been down there with equipment and has made a number of improvements. His purpose today is to call attention to the problem and the inability to get it solved. The township is allowing this to happen and not getting any

results. Recently the kennels have been sold and the buyer told him that the buildings were coming down and that he would be happy to solve the water problem. A few days ago the owner told Mr. Aman that things have changed and it was no longer an interest for him and that the township would take care of it. There are problems with the exact location of the road. He doesn't want to go to a lawyer and he needs the boards help. There have been some trees marked and some trees taken down on the Camp Hill side of the road; no one has talked to him about those trees.

Ms. Batdorf stated that the road crew has been doing some prep work to improve the swales; and approached her with an idea for phasing in drainage improvements. This will take resources with all the different projects going on. Mr. Aman really needs the township's help.

There being no further discussion, the **MOTION** to adjourn was brought forward by Mr. Couris; second by Ms. Shick. *Motion carries unanimously.*

Meeting adjourned at 9:40 PM

Respectfully Submitted,

Kathy Shillenn
Township Secretary