

Board of Supervisors
Minutes
August 9, 2023

Board Members Present: Scott Lambert, Chair; Rich Orlow, Vice-Chair; and Peter Fixler, Member

Staff Present: Steve Brown, Township Manager; Catherine Ricardo, Assistant Township Manager, Donna Wikert, Operations Manager, Township Secretary; Brittany Carosello Deputy Director of Planning and Development; John Mateja, Zoning Enforcement Officer; John Neild, Direct of Public Work; Chris Yeager, Police Chief; Greg Lewis, Fire Chief; Bernadette Kearney, Township Solicitor; and Braun Taylor, Attorney

Action Meeting: Mr. Lambert called the Zoom meeting to order at 6:35 P.M. Pledge of Allegiance

Public Hearings: 5:30PM The hearing was opened at 5:35 by Ms. Kearney

CU-02-2023 for Chester County Intermediate Unit at 40 Moores Road

Full details of the hearing are contained with the transcript prepared by a court reporter. The transcript is available to view at the Township Building.

Mr. Orlow made a motion to approve CU-02-2023 for Chester County Intermediate Unit at 40 Moores Road subject to the conditions just stated by our solicitor and agreed upon by the applicant. Mr. Fixler seconded; the motion was approved 3-0.

Board Briefings:

Executive Session(s) were held on August 7, at 12:00PM and August 9, at 4:30 & 6:15PM (legal, personnel and real estate)

Grant Application Updates – Ms. Ricardo said since last month’s meeting, we had one new grant application for select sections for Route 30 & 352 intersection for multi module transportation in the requested amount of \$2.3 million.

Bishop Tube Update -Mr. Brown announced the meeting with DEP and Residents will take place September 12, 2023 at General Wayne Elementary school between 6:30pm and 8:30pm. The format will be Q&A. The presentation will answer questions and sequence of scheduled actions, they will address the concerns of the residents. The Township will hold a public meeting after no date has been picked yet. On a general awareness note: the proposed developer of the property submitted a final submission of land development. The preliminary has been approved; the final has been submitted. Watch the Agendas for the Planning Commission and Board of Supervisor’s for dates and times for discussions. The Preliminary plans consist of Engineering is done, Condition of approvals are set the applicant and property owner lock into their rights. It is the “I” dotting and “T” crossing, nothing new of substance.

Questions: Katheen Staufer asked what PRP is, “Potential Responsible Party” per Mr. Orlow. Debra Mobile is concerned about how the Township will advertise it very important to get this out! It is critical that members from the Planning, ZHB and EAC attend. Lastly, the final plan will the conditions be met in this final plan.

Mr. Bown said yes, we will advertise and ask the State to make efforts to get the word out. We will invite the Board and Commissions as suggested. Those conditions must be met by the applicant, some will be met before the plan assuming its approved.

Sewer Sale Update – Mr. Lambert read a statement from the Board of Supervisors

East Whiteland Township

Statement of the Board of Supervisors Regarding the Sale of the Sewer System

As many are aware, the current and prior East Whiteland Board of Supervisors, after numerous public presentations and countless hours of meetings and reviews with consulting engineers, lawyers, financial professionals, and other related disciplines, concluded it was in the best interests of the Township to pursue the sale of the Township sewer system. Last week, the Pennsylvania Commonwealth Court issued a decision overturning the Pennsylvania Public Utility Commission's approval of the sale of the system to Aqua. We, the Board of Supervisors, strongly believe that the Court's decision ignored the many benefits to the residents and taxpayers of East Whiteland Township that would come from the sale of the system. We intend to take action to seek correction of this decision.

History

Following the state passage of ACT 12 which allowed the sale municipal assets at Fair Market Value, the Board of Supervisors began in 2019 a comprehensive multiyear review and evaluation from outside experts regarding a possible sale of our aging sewer system. The capital improvements needed for our system; pump station upgrades, two major sewer line extensions, lining and replacing portions of the system; and new environmental regulations weighed heavily on our decisions. Costs, including additional likely debt service spread over 3,900 end users would have been significant. During this time, we held seven (7) public meetings to present information and receive residents' feedback, which was very favorable. The Board concluded, subject to acceptable valuation and the right partner, a sale to an outside company was both in the best interest of OUR residents and critical to the financial solvency of EWT.

Reaction

This Board of Supervisors is surprised and disappointed by the Commonwealth Court's opinion. In seeking its appeal of the PUC's decision, we believe the Pennsylvania Office of Consumer Advocate (OCA) failed to consider the numerous public benefits included in the record and significantly beneficial to the safety, well-being, and lifestyle of EW residents. We strongly disagree with the decision, which adopted what we believe to be the OCA's erroneous position.

Perhaps most disappointing, we believe the Court's opinion effectively does not allow for the Board to properly fulfill our role as elected officials. The Commonwealth granted townships the authority to make these decisions in part based upon their understanding of local needs and priorities. In the event the reversal remains permanent, this Board will not be able to move forward with its plans and vision for the Township.

What the decision means to EWT

The current and past Boards of Supervisors, in considering the decision to proceed with the sale transaction, believe the public benefits far outweigh any potential disadvantages. These public benefits, which are at least now on hold indefinitely include the following:

- New Police Station – If the Commonwealth Court decision is not reversed, EW will not likely proceed with the new police station for possibly many years.

- Open Space & Parkland – There will be no active pursuit of Open Space. There will be no further pursuit of additional parkland.
- Route 30 – Lancaster Avenue improvements – There would be no funds available at the Township for any Route 30 improvements.
- Staffing – While we will fill any vacancies and open positions, we may not be in a position to increase staff and may explore a hiring freeze.
- Debt Payments – All of the Township’s existing debt [approximately \$20,000,000] will remain and will be payable in accordance with its payment schedule over the long term.
- Community Assistance The assistance provided to local civic and community organizations in the past will unfortunately likely be eliminated or drastically reduced. These organizations enhance the lifestyle and recreational opportunities within EW at little to no cost to the EW.
- Storm water management/flooding – The Township has experienced certain flooding problems along Lancaster Avenue, Church Road, and certain private properties. EWT will not be in a position to study these problems, devise solutions, or implement solutions. These flooding problems will remain.
- Sewer Rates will increase – If the WW system reverts to EW, there will no doubt be an increase in rates. The last rate increase was in 2017.
- Other Taxes as needed TBD.

Conclusion

The Board of Supervisors embarked on a lengthy process to sell the Township’s waste water system after careful and deliberate consideration of the costs of continuing to operate the system versus the benefits that would come to the Township. The Commonwealth Court’s decision, if it stands, will eliminate those benefits, and remove the Board’s ability to move forward with its vision for the Township. We believe the Commonwealth Court erred and will take appropriate action in furtherance of what we fully believe is in the best interests of our residents and community.

Scott Lambert
Township Supervisor

Park & Recreation – Bacton Hill Park Opening September 9, 2023, Concert in the Park August 16 Valley Creek Park & Movie Night featuring “The Super Mario Bros.” movie also at Valley Creek Park- Ms. Ricardo made mention of the events lined up for the remaining summer.

“Clews and Strawbridge” property The Applicant has withdrawn this petition: Zoning Map Amendment to include tracts of land identified as UPI NOS. 42-4-309, 42-4-310, and 42-4-310.2 in the MF Multifamily Route 30 Overlay District – No further action required.

Board Motions & Resolutions:

Present Appointment of Captain Terry Bechtel and Full-time FF/EMT Paul Brown

Approve job offers to four new Part Time Firefighters/EMTs – Carl Weisbecker, Allan Edgerton, Daniel Cornell, and Quintin Lotz - Chief Lewis acknowledged the four new Part Time Firefighters/EMTs to the Board.

Mr. Orlow made a motion to approve the hiring of the four new Part Time Firefighters/EMT. Mr. Fixler seconded the motion; the motion was approved 3-0.

Accept Deed of Dedication of Road Right of Way and Storm Sewer Pipes- Reserve at Great Valley – Mr. Fixler made a motion to approve the Deed of Dedication of Road Right of Way. Mr. Orlow seconded the motion; the motion was approved 3-0.

Consider Motion to Advertise and Motion to Award:

Approve Advertisement for 2023/2024 Heating Oil and Diesel Fuel Bid – Mr. Neild said it is that time of the year and asked for approval to advertise. Mr. Fixler made a motion to approve. Mr. Orlow seconded the motion; the motion was approved 3-0.

Chief Yeager announced a reminder that if you are going to be on vacation you can notify the Police Department and they can make sure your home is on a list to check on while you are away, also you can fill out the residential emergency contact form which provides the Police with contact information. Please see link below:

<https://www.eastwhiteland.org/342/Vacation-Watch>

<https://www.eastwhiteland.org/DocumentCenter/View/1209/EWTPD-residential-emergency-contact-form>

ARPA Grant Awards – Ms. Ricardo spoke on the Mini Grant (ARPA) funds we received several applications from nonprofit organizations. Funding is aligned with Federal program guidelines. The Township received six applications. Staff has further questions on three of the applications, it is ready to move forward on the other three at this time.

First – Home of the Sparrow based in East Whiteland, dedicated solely to single women and mothers assisting them with financial assistance and housing. They requested \$50,000 to help sustain service activities through direct rental payments, education and creating long term strategies for housing stability.

Second – Kathern D. Markley Elementary PTO, The Great Valley outdoor classroom pavilion project. They requested \$50,000 to help fund construction of outdoor classroom on the site. Due to the construction of the new 5/6 center the previous one was demolished. The pavilion is to engage children with physical fitness. Plans are already approved but not funded and would make the pavilion available to public and the East Whiteland summer camp.

Third – Malvern Public Library – Reading and Math scores hitting record low they are seeking \$15,400 to provide additional services to the community by purchasing vox books and wonder books for the children's collection. These tools are valuable for new or struggling learners. The library will purchase launch pads preloaded with education tablets.

Mr. Lambert asked if we are waiting for additional information or is this your final determination. Ms. Ricardo said one of the key things is, is this program stainable if the Township doesn't fund it. Mr. Brown said basically we have questions; we need more information, and we can make a recommendation next month. Mr. Fixler mentioned he would like to hear the other applicants and get a full picture of all the applications and then look at it in its entirety before anything is granted. Mr. Orlow was surprised only six applications were approved.

Mr. Fixler made motion to continue further consideration of ARPA grant awards. Mr. Orlow seconded the motion; the motion was approved 3-0.

Planning & Development:

Consider Extension of Time to Render a Decision on the Following Development Applications:

SD-01-2023 for Preliminary / Final Subdivision Application at 99 Old Valley Road – extension to December 31, 2023

Mr. Orlow made a motion to approve the extension of time. Mr. Fixler seconded the motion; the motion was approved 3-0.

Consider Motion to Authorize Advertising for the Following Ordinance Amendments:

Zoning Text Amendment related to Signs in ROC/R Regionally Oriented Commercial-Residential District Developments (Section 200-89.1)

Mr. Fixler made a motion to approve the Advertising for Zoning Text Amendment related to Signs in ROC/R Regionally Oriented Commercial-Residential District Developments (Section 200-89.1) Mr. Orlow seconded the motion; the motion was approved 3-0.

Zoning Ordinance Amendment related to the MF Multifamily Route 30 Overlay District (Section 200-39.4)

This was pushed off to next month, the Board did not have enough time to look this over.

Zoning & Code Enforcement: Update

Code and Property Maintenance Enforcement Update

Consider Sending Township Solicitor to Zoning Hearing Board to Support or Oppose:

- i. ZHB- 2023-05 The application of Timothy and Kerin Caban as to certain property located on 1050 West King Road. Parcel # 42-7-21. The property is a legal non-conforming property as to setbacks in the R-2 Zoning District. The application is for a variance from Section 200-102 of the Zoning Code wherein a structure that does not conform to development standards of the Code may only be enlarged if the enlargement meets all the development standards of the Code. The applicant is looking to add 3' to the porch which already extends 4'2" into the required front yard.
- ii. ZHB-2023-04 The application of Janssen Research and Development as to certain property located at 244 Great Valley Parkway, Parcel # 42-4-15.21. The property is in an O/BP Zoning District. The application is for two variances to allow for the installation of a generator pad and walkways. Included is a variance from Section 200-36.C where the Code by reference limits the impervious coverage to 60%, and the applicant is requesting an increase to 66.43%. Also, a variance to Section 200-36.C is requested wherein the Code by reference requires a setback of 35 feet from the tract perimeter of other-like zoned properties and the applicant will be providing 3.6 feet.

The Board agreed no need to send the solicitor.

Public Comment: General

Consent Agenda (Consider Board Action):

Approve Meeting Minutes from July 2023

Ratify Payment of Bills: \$ 478,973.67

Accept Treasurer's Report for June

Approve amendment to Workspace parking agreement for August 26 movie night in Valley Creek Park
Chester County Chamber of Business Industry Membership \$1,100

Approve 35 Carol Lane Real Estate Transfer tax refund \$1,421

Ratify MTF CFA Route 30/352 Intersection Resolution #22-2023

Approve agreement with Great Valley School District for Inspector Services – Additional Department
of Codes Services

Approve switching cell phone service to AT&T FirstNet Monthly \$1,113.74

Approve Final Payment Rt. 29 & Rt. 30 Island Beautification \$109,938.65

Approve purchase of CPR Mannequins and Choking Vests \$3,575.59

Mr. Orow made a motion to approve the Consent Agenda as read by the Chair. Mr. Fixler seconded the motion; the motion was approved 3-0.

Meeting Adjournment – 8:00pm

Donna Wikert

Board Secretary

**BOARDS & COMMISSIONS
MEETING DATES – 2023**

Board of Supervisors – 6:30 P.M.

Executive Session 6:00 P.M.

(2nd Wednesday)

Jan.	11	July	12
Feb.	8	Aug.	9
Mar.	8	Sept.	13
Apr.	12	Oct.	11
May	10	Nov.	8
June	14	Dec.	13

Zoning Hearing Board – 7:15 P.M.

(4th Monday)

Jan.	23	July	24
Feb.	27	Aug.	28
Mar.	27	Sept.	25
Ap.	24	Oct.	23
May	22	Nov.	27
June	26	Dec.	25 (18)

Historical Commission – 7:00 P.M.

(3rd Wednesday)

Jan.	18	July	19
Feb.	15	Aug.	16
Mar.	15	Sept.	20
Apr.	19	Oct.	18
May	17	Nov.	15
June	21	Dec.	20

Planning Commission – 7:00 P.M.

(4th Wednesday)

Jan.	25	July	26
Feb.	22	Aug.	23
Mar.	22	Sept.	27
April	26	Oct.	25
May	24	Nov.	22
June	28	Dec.	27

Park & Recreation - 7:00 P.M.

(4th Tuesday)

Jan.	24	July	25
Feb.	28	Aug.	22
Mar.	28	Sept.	26
Apr.	25	Oct.	24
May	23	Nov.	NONE
June	28	Dec.	5

Environmental Advisory Council-7:30PM

(1st Thursday)

Jan.	5	July	6
Feb.	2	Aug.	3
Mar.	2	Sept.	7
Apr.	6	Oct.	5
May	4	Nov.	2
June	1	Dec.	7

**Pension Board of Trustees: 4:00 pm (Quarterly - 3rd Wednesday) Feb. 15 - May 17 Aug. 16
Nov. 15**

Election Days – May 16, 2023 & November 7, 2023