



Board of Supervisors Meeting Minutes
Monday, March 25, 2019 6:30 P.M.

Attendance: Supervisors – Ricki Stumpo, Elaine DiMonte, Alice Balsama; Mark Knightly, Public Works Director; Scott Kirkland, Township Representative to West Chester Public Library Board; Chris Turner, Esquire, Unruh, Turner, Burke & Frees, Township Solicitor.

Public in attendance: 8

1. **Call to Order:** Stumpo called the meeting to order at 6:30 p.m. and led the Pledge of Allegiance.
2. **Sunshine Announcements:** no Sunshine Announcements.
3. **Announcements:** Stumpo announced that the public presentation on the West Chester Trolley presented by the Township Historical Committee was well attended and well received. She suggested scheduling a presentation at the Township Building. Stumpo received a report from the Clean Stream Team Committee indicating that the Brandywine Conservancy submitted a grant for tree planting at Red Bridge Farm in 2020. Stumpo also noted the Board received a report from the Secretary regarding her attendance at the March 7th Chester County Association of Township Officials (CCATO) Convention. Stumpo thanked the Secretary for the report and asked that Jan Bowers, Director, Chester County Water Resource Authority, be contacted to share the stormwater management presentation from the March 7th CCATO Convention.
4. **Work Session:** the March 19th Work Session was cancelled.
5. **Public Comment on Non-Agenda Items:** Val Eisinger's comment regarding the upcoming Castle Bam Event was deferred to the item under New Business.
6. **Public Hearing to Amend the Township Code Chapter 35 "Burning, Open":** MOTION: at 6:35 p.m., Balsama moved, DiMonte seconded, to close the regular meeting and open an ordinance hearing; no discussion; motion carried. Stumpo reviewed the proposed amendment to Chapter 35, "Burning, Open", which will amend regulations governing open burning within the Township and other miscellaneous provisions. Board reviewed and noted 4 exhibits: minutes of the Planning Commission (October 3, 2018) and Board of Supervisors (October 29, 2018); Township Solicitor letter dated March 13, 2019; and March 14, 2019 Publication Notice from the *Daily Local News*. Board called for public discussion. There being no public discussion, at 6:40 p.m., DiMonte moved, Balsama seconded, to close the ordinance hearing and reopen the public meeting. MOTION: Stumpo moved, DiMonte seconded, to adopt Ordinance No. 1 of 2019 amending Chapter 35 Burning, Open, of the Township Code; motion carried.
7. **West Chester Public Library (WCPL) Report:** Kirkland and Library Director Victoria Dow provided a financial overview of operating income and expenditures. They noted that government income is the primary source for funding. For this reason, they expressed appreciation for Pocopson Township's continued support. Board agreed to release the annual contribution to the WCPL in May in accordance with the request to do so as the contribution is used for funding the summer programs. Kirkland and Dow noted that the WCPL is a presence in the community providing early literacy outreach, programs for adults and teens, and numerous educational and informative fundraising events including

but not limited to the Antique Roadshow, Quizzo, and "Meet the Author" programs. WCPL successfully partnered with local business owners and agencies to offer special programs in the arts, literacy, and enrollment assistance for a number of entitlements. The specialty cake pan program is very popular and the cake pans frequently circulate. Kirkland noted that the hard work of the staff and volunteers keeps expenses reasonable. The success of the "Building Our Future Annual Appeal 2018" significantly impacted WCPL's financial sustainability as the West Chester Borough dollar-for-dollar challenge was met and reduced the WCPL's mortgage debt obligation. Other programs, such as the "Holiday Home Tour" and the "Happy Hours on the Terrace", are successful fundraising sources because of the generosity of the participants and volunteers. Dow reported that WCPL will continue to pursue grants for furniture replacement. Balsama noted that the WCPL should be commended for coming up with innovative ideas and programs to engage the community. The Board expressed their appreciation for the update and noted that Mr. Kirkland is doing a wonderful job as the Township's representative for the WCPL.

8. **Public Works:** Knightly reported the department will finish crack sealing roadbeds in the larger developments. Chip sealing and paving is planned for Marlborough, Corinne, and Parkersville Roads. Roadside chipping is underway this week and will finish on March 29th.
 - a. **Resolution for Co-Op Highway Materials:** Board reviewed Co-Op bids and materials supplies for 2019. MOTION: Stumpo moved, Balsama seconded, to adopt Resolution No. 2019-6 acceptance of low bids for highway materials for 2019 in accordance with the legal advertising and bid opening completed by the Municipal Cooperative of Southern Chester County; motion carried.
9. **Facilities:** Stumpo noted that in November 2018, Bernard Baily indicated his desire to renew the farmland lease for a 1-year term in accordance with the lease terms. Board agreed to the renewal. DiMonte reported no update on facilities at this time.
10. **Kennett Area EMS Commission Report:** Stumpo reported that the EMS Commission discussed what approach might be considered in recruiting and qualifying members of the Latino community who have expressed interest in serving as volunteer firefighters. Certain challenges exist in providing for testing opportunities to obtain the certifications required to serve as a volunteer firefighter. The EMS Commission would like to explore accommodations that might extend the time allotment to take the test as well as addressing language barriers.
11. **Zoning Official Report:** report tabled for the April meeting.
12. **Planning Commission (PC) Report/March 6th Meeting:** Board reviewed the report submitted by the Planning Commission. The PC continues to work on an Airbnb and short-term rental amendment to the Code.
13. **New Business:**
 - a. **Legal Action Related to 435 Hickory Hill Road** - at the request of the Board, Turner provided an overview of the 2007 complaint filed by the Township seeking various forms of relief and restraining the ability of Mr. Margera to conduct commercial activity and filming of TV programs and movies on the property. An agreement was reached with Mr. Margera at that time when he agreed to no longer conduct commercial activity on the property. Turner noted that in December of 2018, Mr. Margera held a large-scale party that included filming in violation of the prior agreement and court order. The Township requested that Turner proceed with the research necessary to petition the court for an injunction for the upcoming event on March 31st and April 1st at the property as advertised on social media and whether the event held in December 2018 is in violation of the previous order. PUBLIC COMMENT: Frank DiDomenico inquired as to the legal cost and if the legal fees for the litigation will be recoverable. Turner indicated the time commitment would be 10 to 20 hours given the variables with any type of litigation. It is reasonable for the

Township to request monetary sanctions in the form of legal fees, but it is at the discretion of the judge whether to award such fees. Once the legal paperwork is filed, Mr. Margera is afforded due process in providing a response to the evidence and a potential defense why the relief requested by the Township should not be granted. Turner noted that the Township can correlate filming and commercial activity occurring on the property. DiMonte asked Turner to clarify if the legal filings will prevent the upcoming events and if there is sufficient time for legal filings. Turner indicated that it will be up to the court to determine if the evidence is sufficient to impose an injunction with regard to the March 31st and April 1st events currently promoted on social media. Turner briefly described the legal process for filing an injunction including the timeline for response as provided by the law. He cautioned that the order is from 2007 and for that reason the court may have to take a methodical approach in reviewing the timeline as well as the celebrity status of Mr. Margera. Terry Gumpfer asked if the court documents name Mr. Margera as the owner of the property or is the property titled in any other individual name or entity. Turner indicated that the property is in the name of Mr. Margera and that a search will need to be done to identify his legal residence in order to serve the court papers. Valeri Eisinger expressed concern that if Mr. Margera chooses to admit attendees for free the Township will not have legal recourse as it would not be considered a commercial activity. Turner indicated that the legal action proposed includes a filing regarding contempt of the 2007 court order. Lieutenant Commander Michelle Swanter, Avondale Station, commented that if the Township is successful with the injunction the State Police will be prepared with roadblocks, checkpoints, and posting officers at the entrance gate to the property. Swanter reviewed the list of towing companies distributed to the public and the process to have those vehicles towed that create traffic hazards or park on private property. Mare Schafflein asked how the State Police will handle attendees arriving by Uber or Lyft. She also asked for clarification as to signage prohibiting parking on private property. Swanter urged residents to post signs on private property and to call 9-1-1 regarding any suspicious person or activity. Turner also noted that citizens may take civil action for damages to private property. Stumpo confirmed that with regard to the March 31st and April 1st events, the Township has taken the steps necessary to contact the Liquor Control Board, Unionville-Chadds Ford School District, and County agencies so that they can be prepared. Balsama reminded the public that the steps taken by the Board are the direct result of public response to the previous event. MOTION: Stumpo moved, DiMonte seconded, to authorize and direct the Solicitor, the members of the Board, and Township employees and contractors to proceed with legal action to enforce the existing court order for 435 Hickory Hill Road; motion carried.

- b. Verizon Renewal Letter: Balsama noted the current franchise agreement expires in 2021. This request is to begin the negotiation process. The agreement is a source of income for the Township. MOTION: Balsama moved, DiMonte seconded, to authorize submitting the Verizon Franchise Agreement Renewal Letter to the Township Solicitor for review and recommendations; motion carried.
- c. Appointment of Longwood Fire Company as Township Fire Marshal: Stumpo noted Jim Knightly, previously a Township employee, served as Fire Marshal. Board agreed that the position should be filled. A letter was submitted by Chief A.J. McCarthy, Longwood Fire Company, expressing interest in the appointment. Balsama suggested and the Board agreed to send the Longwood Fire Company letter of interest to the Township Solicitor for review and to draft an agreement or memorandum of understanding to appoint Longwood Fire Company as the Township Fire Marshal.

14. Old Business:

- a. Resolution Recognizing April as PA One Call Safety Month - MOTION: Stumpo moved, Balsama seconded, to adopt Resolution 2019-07 Recognizing April as Pennsylvania Safe Digging Month; motion carried.

15. **Correspondence:** Board signed a letter in support of Chester County Planning Commission application for the American Battlefield Protection Program Grant as part of the key phase of the Brandywine Battlefield Strategic Landscapes planning project.

16. **Treasurer's Warrants:** MOTION: Stumpo moved, Balsama seconded, to approve the Bill Payment Lists for February 26 - March 25, 2019 recommended for payment by the Treasurer; General Fund: 42 bills paid totaling \$46,038.40; 14 debit card charges totaling \$2,021.39; Highway Aid: 3 bills totaling \$5,916.29; Escrow: 1 bill for \$455.00; motion unanimously approved.

17. **Approval of Meeting Minutes:** Stumpo moved, DiMonte seconded, to approve the February 25, 2019 meeting minutes as submitted; motion carried.

18. **Adjournment:** At 7:48 p.m., DiMonte moved, Balsama seconded, to adjourn the meeting; motion carried.



Susan Simone, Administrative Secretary



Ricki Stumpo, Chairman