

# WARRINGTON TOWNSHIP BOARD OF SUPERVISORS

## MINUTES FOR MARCH 10, 2009

The regular meeting of the Warrington Township Board of Supervisors was held on March 10, 2009, 7:30 p.m., at the Township Building located at 852 Easton Road, Warrington, PA 18976. The members present were as follows:

### 1. ATTENDANCE:

Michael W. Lamond, Jr., Vice Chairperson; Glenn McKay, Secretary; Rebecca A. Kiefer, Assistant Secretary; and Paul Plotnick, Member; Timothy J. Tieperman, Township Manager; Michael Mrozinski, Director of Planning and Economic Development; Michael P. Clarke, Esq.; Township Solicitor; and Bryan McAdam, Engineer with CKS Engineers.

### 2. PLEDGE OF ALLEGIANCE

The meeting opened with a pledge to the flag.

3. BIKE & HIKE AWARD. Mr. Lamond reported that Carol Butterworth was in Hershey accepting an award from the Pennsylvania Recreation & Park Society on behalf of the Bike & Hike Trail System in Warrington.

3. EXECUTIVE SESSION REPORT. Mr. Clarke reported that at the conclusion of our last meeting held on February 24, 2009 the Board held an executive session to discuss a matter of litigation involving the appeal that Stone Manor Corporate Center has taken as a result of the Zoning Hearing Board decision.

### 4. APPROVAL OF BILL LIST: 2/24/09-3/10/09 - \$436,361.76

Motion – It was moved by Mr. McKay, seconded by Mr. Plotnick, that the Board of Supervisors voted to amend his motion to approve the bill list from 2/24/09 to 3/10/09 in the amount of \$436,361.76 tabling the one line item for Depalo Design & Planning in the amount of \$1,650. This motion passed by a roll call vote of 4 yeas.

Mr. Plotnick raised a question about the charge for the township's expert witness testimony, Depalo Design & Planning before the Zoning Hearing Board had. He referenced Page 6 of the bill list. The figure he questioned was \$1,650. Mr. Clarke said he was the individual who had done the Route 611 Corridor Study for the township. As you will recall at a previous meeting we had hoped to use someone from CKS to provide expert testimony. He said when we had discussions with Tom Zarko, he was not present at the time and CKS did not represent the township at the time the zoning change had been made with regards to the billboards. Mr. Plotnick said the hourly rate was reasonable but he was concerned about the four hours spent doing the research.

Mr. McKay asked if the bill list could be tabled until we can obtain additional information about the four hours spent doing the research. Mr. Clarke said this item on page 6 can be removed from the bill list and we'll inquire of Mr. Depalo about the time that was spent on this research.

**5. APPROVAL OF MINUTES****a) February 7, 2009**

Motion – It was moved by Mr. McKay, seconded by Mr. Plotnick, that the Board of Supervisors voted to approve the minutes of the February 7, 2009 meeting as amended. This motion passed by a vote of 3-1. Mr. Lamond abstained.

**b) February 10, 2009**

Motion – It was moved by Mr. McKay, seconded by Mr. Plotnick, that the Board of Supervisors voted to approve the minutes of the February 10, 2009 meeting. This motion passed by a vote of 4-0.

**6. MINUTES FOR POSTING****a) February 24, 2009**

Motion – It was moved by Mr. McKay, seconded by Mr. Plotnick, that the Board of Supervisors voted to post the minutes of the February 24, 2009 meeting. This motion passed by a vote of 4-0.

**7. PUBLIC COMMENT**

a) **DiPrinzio Tract.** Mr. Erik Rorvik, who resides in Lansdale, said he's been dealing with the township regarding a piece of property known as the DiPrinzio Tract located on County Line Road. He said the township auctioned the property to him without a clear title in 2007. He said he was trying to be informed during the whole matter and Mr. Sugarman did not inform him about what was happening. He said in February 2008 Mr. Sugarman finally came back with a letter offering to put the money in escrow. He said he assumed that had been done and meanwhile Mr. Sugarman passed away. He said he's been trying to find the money and the township didn't even know where the money was. He said finally the township did learn that the money was still with Mr. Sugarman's estate. He said he's been trying to receive this money back and it's been costing him 20% on some of his higher costs lines of credit rates. He said he expected some interest back on this money.

Mr. Rorvik said Mr. Clarke said he would be able to have this money by the end of this week. Mr. Rorvik said he would have to sign a release to receive the money and receive no interest. He said he's asking this Board whether they feel this is fair and whether or not they would be willing to give up almost \$18,000 of their money over two years on such a basis and receive nothing. He asked if the Board would agree to a release and allow a third party decide this at a later date.

Mr. Clarke said he and Mr. Rorvik spoke earlier this afternoon and we had also spoken a few weeks back. He said Mr. Rorvik is correct that this money was forwarded by himself and his partner Paul Lizelle to Mr. Sugarman. At the time they were the successful bidder on this property. He said the money was then deposited in an attorney account, what is known as an "Ialta Account" under the control of Mr. Sugarman. He said when Mr. Sugarman passed away last year, right around that time it was determined that the township was not going to be able to sell the DiPrinzio Tract. There was a court decision and Judge Mellon ruled that the township was unable to sell the DiPrinzio Tract. Shortly thereafter Mr. Rorvik and some conversations and a hand written note to Mr. Michael Mrozinski requested that the money be returned.

Mr. Clarke said the township has attempted to determine that the money was still being held in Mr. Sugarman's Ialta Account. Unfortunately, it has been a very time consuming process while Mr. Sugarman's estate has gone from Probate and his executors have settled up all of his various business and

personal accounts. He said today he received an email from Mr. Sugarman's son Kenneth Sugarman who indicated that they have finally been able to get all the documents and all of the information regarding the trust account and indeed the Ialta Account is holding \$17,650 of Mr. Rorvik's money. He said there was some correspondence early on in this process where Mr. Sugarman had indicated in a letter that he was going to place this money in an ~~non~~-interest bearing account. For that reason and when he spoke to Mr. Rorvik he indicated that the township would be returning the money but we didn't believe that interest was owed at a minimum from the time the money was deposited in Mr. Sugarman's account until such time as Mr. Rorvik asked for it to be returned.

Mr. Clarke said he had a conversation this evening with Mr. Lamond and Mr. Plotnick where he indicated that perhaps from the date that Mr. Rorvik has asked for the money to be returned until the date the township actually returns it that possibly it would be fair if the township were to provide Mr. Rorvik with some interest during that period of time. He said Mr. Rorvik has indicated that he is also seeking some sort of consequential damages here and he doesn't believe that is warranted.

Mr. Clarke said we can have a check cut for Mr. Rorvik by the end of the week.

Mr. McKay proposed that by the date of Mr. Sugarman's letter (2/4/08) that the township gives Mr. Rorvik his money back plus interest.

Mr. Clarke said one of the problems that occurred here was that Mr. Rorvik had deposited some money in an account and then a check was written out for Mr. Sugarman's escrow or Ialta Account to Mr. Rorvik back in June 2007. He said that two of the checks were written under the name of Paul Lsell, who is apparently Mr. Rorvik's partner and two checks were written for Mr. Livelle by a Bank of America account. Those checks totaled just over \$30,000 and the \$12,000 has been returned at one point to Mr. Rorvik and that's why we're up to \$17,650. He said one of the problems that Mr. Sugarman's estate was laboring under was there were no checks from Eric Rorvik. They were written from Paul Livelle, who was his partner. Once he spoke to Mr. Rorvik back on 2/23/09 and we immediately communicated that information to Ken Sugarman then they were able to find the checks and discover that the money was there.

Mr. Plotnick proposed that the township calculate the interest that we get on our escrow accounts from the date of this 2/4/08 letter on the amount of the principal and get a release on that money from the other person whose check it was written on to make sure that we're clear on all places and settle the issue as soon as possible. Mr. Clarke said the check will have to be written to Mr. Paul Livelle. He said the calculations would be relatively easy and we could have the check available for Mr. Rorvik on Friday, March 13.

Mr. Clarke said Mr. Rorvik is entitled to receive \$17,650 returned to him as soon as the township can make arrangements for it. He said if Mr. Rorvik is not interested in having interest at our escrow amount from 2/4/08 he doesn't have to and if he wishes to pursue legal action at some other times he's entitled to do that.

Mr. McKay proposed that what we've been discussing and cutting a check with Mr. Livelle with the agreed upon bank interest included from the 2/4/08 until now.

Mr. Clarke said obviously the township can prepare a release for Mr. Rorvik and Mr. Livelle that will pay them the interest and our escrow rate based on going back to 2/4/08. He said if these parties are willing to sign that release then the check for \$17,650 plus the interest will be cut to Mr. Rorvik and Mr. Livelle on Friday, March 13. If they are not willing to sign that, then a check for \$17,650 will be cut to Mr. Livelle and Mr. Rorvik or Mr. Livelle on Friday, March 13.

b) **Lower Nike Site.** Mr. Andy Velas, who resides on Honora Street, said the township built at the Lower Nike Site a real nice restroom. He said it's easy to maintain and real spacious. He wanted to find out how often that is supposed to be cleaned. He said it hasn't been cleaned for the past three weeks. He said the stainless steel wash basins have not been cleaned in one year. He said the supervisors were made aware of this situation a year ago and one year later we still have the same condition. He said he hoped the township would do something about this condition. He talked about the bird blind he toured with staff a year ago and it was full of mud and leaves. He said it's still full of mud and leaves. He said since the township doesn't take any interest in it he wondered if he could volunteer one time to clean out the leaves and mud.

Mrs. Kiefer said she brought this subject up over a year ago and was informed there was a recommended solution for the water drainage and mud deflection that the township could implement.

Mr. McKay said there is no long term simple solution to that drainage in that location. He said there is a tremendous amount of water that flows in that area seasonally.

#### 8. **PUBLIC HEARING:**

a) **Ordinance amending Chapter 15 (Motor Vehicles and Traffic), Section 210 (U-Turns Prohibited at Certain Locations).** This item is going to be tabled until 3/24/09.

Motion – It was moved by Mr. McKay, seconded by Mr. Plotnick, that the Board of Supervisors voted to table the ordinance amending Chapter 15 (Motor Vehicles and Traffic), Section 210 (U-Turns Prohibited at Certain Locations) until the Board's 3/24/09 meeting. This motion passed by a vote of 4-0.

9. **MANAGER'S REPORT.** Mr. Tieperman reviewed the manager's report which included a) 2009 Preliminary goals; b) 202 Lighting Agreement; c) Compressed Natural Gas (CNG) Workshop; d) Communications Initiatives Update; e) Encroachment into Open Space; f) Other Business; and g) Correspondence.

Mr. Tieperman reported that we learned today that the township is getting a \$28,000 Department of Justice Grant, which will be applied for public safety equipment.

a) **Township Engineer's Report.** Mr. Bryan McAdam reviewed his monthly report as follows a) Tamanend Middle School expansion of middle school; b) Pleasantville Church expansion of existing church; c) Palomino Drive Flashing and Warning Lights at Barclay Elementary School; d) Twin Oaks Pond Aeration System; and e) West End Fire Station.

b) **Planning and Zoning Monthly Report.** Mr. Mrozinski reviewed his Planning and Zoning Monthly Report for March 2009. He said we've been working for some time on the rezoning of the entire Corridor of Easton Road. He said there are eleven different districts from top to bottom and we're looking for a single vision. We're cutting it down to four districts. We're trying to standardize the design requirements to make it a simpler ordinance to use and enforce.

Mr. McKay said the Katz organization and the fire department without our knowledge created a very high visible attractive nuisance to two buildings along Route 611. He asked what was going to be done about those buildings and when and what kind of enforcement do we have to make sure those buildings are taken down as soon as possible. Mr. Mrozinski said he talked to the fire marshal today and he was going to follow up with the fire department. He said the township is going to follow up under the Property Maintenance Code, which is code enforcement.

Mr. Clarke said he wasn't aware of this situation and said it sounds as if our fire department used some of these old buildings for training and there is an agreement that once the training is over that these buildings were supposed to be taken down. Mr. Clarke recommended that the Katz organization should be given a limited period of time to take these buildings down on Route 611 and if they are not, since it is a direct threat to the public health, safety and welfare that the township would do the same thing that they did with Malcolm's, which is we would go in and secure the site and then we would lien the property.

#### **NEW BUSINESS (ACTION/DISCUSSION ITEMS):**

##### **10. Consider authorizing bid advertisement for the 2009 Pavement Management Program.**

Motion – It was moved by Mr. McKay, seconded by Mr. Plotnick, that the Board of Supervisors voted to authorize bid advertisement for the 2009 Pavement Management Program. This motion passed by a vote of 4-0.

**11. Consider authorizing bid advertisement for Mill Creek Area Low Pressure Sewer System.** Mr. Adams said the Mill Creek Area Low Pressure Sewer System is the force main that will go from the fire station up to Kings Court. It will encompass laterals for the fire company as well as a future building proposed on that property. He said it also runs part way up Mill Creek Road to take in the Public Works Building.

Mrs. Kiefer stated that this improvement should be part of the capital project, not charged to the rate payers.

Motion – It was moved by Mr. McKay, seconded by Mr. Plotnick, that the Board of Supervisors voted to authorize bid advertisement for the Mill Creek Area Low Pressure Sewer System. This motion passed by a vote of 3-1. Mrs. Kiefer voted no.

**12. Consider approval of the PennDOT Route 202 Multi-Use Trail Maintenance Agreement.** Mr. Clarke reported that this is an agreement that has had various discussions between the township and PennDOT. He said Mr. Zarko has somewhat taken the lead on this. He said there have been several drafts. He said Mr. Zarko was able to obtain shared-use path maintenance agreements from Montgomery Township and Doylestown Township. He said with what was previously agreed to by PennDOT he was able to take the buffet line of approach and pick out what he liked and what he didn't like left out of the agreement.

Mr. Clarke said this is a better agreement for the township than the one we considered a few months back and it's probably as good as we're going to get at this point in time.

Motion – It was moved by Mrs. Kiefer, seconded by Mr. Plotnick, that the Board of Supervisors voted to approve Shared-Use Path Maintenance Agreement between Warrington Township and PennDOT. This motion passed by a vote of 3-1. Mr. McKay voted no.

**13. Consider adoption of Resolution authorizing the establishment of an auxiliary 457 (b) retirement plan.** Mr. Tieperman updated the Board on the auxiliary 457 (b) retirement plan. He said we have our very first police officer who is activating his drop benefits and we currently do not have a retirement mechanism where we can deposit those drop accounts in with that person without incurring a tax penalty. He said this program is an auxiliary 457 (b) retirement plan to our current ICMA 457 Retirement Plan. This doesn't replace it but offers an auxiliary plan to our current one.

Motion – It was moved by Mr. Plotnick, seconded by Mrs. Kiefer, that the Board of Supervisors voted to approve the adoption of a resolution for Warrington Township to offer a deferred retirement option plan referred to as DROP. This motion passed by a vote of 4-0.

14. **Consider authorization of a letter of intent to the Governor’s Center for Local Government Services requesting technical assistance for a regionalization police study.** Mr. Tieperman reported that this is the very first process that the Governor’s Center requires of us if we want to look into a possible police regionalization. Before anything begins they are asking that any participating township to authorize a letter of intent. This information came right out of the Governor’s Center webpage that was directed to me by the consultant. Once we authorize the letter of intent the Phase I process begins.

Motion – It was moved by Mr. McKay, seconded by Mr. Plotnick that the Board of Supervisors voted to authorize a letter of intent to the Governor’s Center for Local Government Services requesting technical assistance for a regionalization police study. This motion passed by a vote of 4-0


15. **CONSENT AGENDA:**

a) **Motion to approve Resolution for MPOETC Grant (Municipal Police Officers’ Education and Training Commission) in the amount of \$2,756.25.**

Motion – It was moved by Mrs. Kiefer, seconded by Mr. McKay, that the Board of Supervisors approved the resolution for MPOETC Grant (Municipal Police Officers’ Education and Training Commission in the amount of \$2,756.25. This motion passed by a vote of 4-0.

16. **ADJOURNMENT**

It was moved by Mr. Plotnick, seconded by Mrs. Kiefer, the Board of Supervisors voted to adjourn the meeting at 9:20 p.m. This motion passed by a vote of 4-0.

  
Timothy J. Tieperman  
Township Manager

5/14/2009  
Date