

RESOLUTION NO. 13 - 2011

RESOLUTION EXTENDING THE MORATORIUM ON THE ISSUANCE OF A ZONING CERTIFICATE FOR AN "INTERNET SWEEPSTAKES ESTABLISHMENT" USE UNTIL NOVEMBER 6, 2011 AND DECLARING AN EMERGENCY AND DISPENSING WITH THE SECOND READING

WHEREAS, internet sweepstakes establishments have become business enterprises within the State of Ohio; and,

WHEREAS, an "internet sweepstakes establishment" promotes the sale of prepaid internet time cards or phone cards to retail customers in varying amounts for use at its business location which entitle each cardholder to participate in sweepstakes directly in proportion to the amount of the card purchased; and,

WHEREAS, the sweepstakes system allows a customer to use the phone card at a game terminal to browse the internet or participate in games which reveal sweepstakes entries; and,

WHEREAS, the game server or phone card randomly selects sweepstakes entries permitting users to select prizes or prize values from a pool of finite sweepstakes entries; and,

WHEREAS, law enforcement authorities in the State of Ohio, particularly the Ohio Investigative Unit of the Office of the Ohio Attorney General, are investigating whether the computer game terminals involve a game of chance (gambling) or a skill-based amusement device, which is not gambling; and,

WHEREAS, Ohio law prohibits the operation of a facility which provides games of chance conducted for profit or any scheme of chance; and,

WHEREAS, the law excludes a "skill-based amusement machine, or a pool not conducted for profit" from the definition of a game of chance; and,

WHEREAS, the prize awarded may make an otherwise legal gambling operation a violation of the law if the prize awarded is cash or a cash equivalent or the prize is not redeemable at the internet establishment; and,

WHEREAS, the West Chester Township Board of Trustees is also concerned about the proper regulation of internet sweepstakes establishments as a permitted or conditional use, its classification as a retail/service or entertainment/recreational use; parking issues depending upon the number of terminals at each location; traffic circulation issues where several internet establishments are located within close proximity; setbacks from residential uses, schools and other similar uses; and whether licensing of an internet establishment operation is advisable to inspect for gambling; and,

WHEREAS, on February 8, 2011 the West Chester Township Board of Trustees approved Resolution 03-2011 declaring a moratorium on the issuance of a Zoning Certificate for an "Internet Sweepstakes Establishment" use until August 8, 2011; and,

WHEREAS, on June 14, 2011 the West Chester Township Board of Trustees approved Resolution 11-2011 initiating text amendments to the West Chester Zoning Resolution, which includes changes that specifically address "Internet Sweepstakes Establishments" among other issues; and,

WHEREAS, the proposed text amendments are currently being reviewed by the appropriate governmental entities as required by the Ohio Revised Code, which is expected to conclude after the date the moratorium is set to expire; and,

WHEREAS, the West Chester Board of Trustees desires to extend the moratorium on the issuance of a Zoning Certificate for an "Internet Sweepstakes Establishment" use to allow additional time for the proposed text amendments to continue through the process as required by the Ohio Revised Code.

NOW THEREFORE, BE IT RESOLVED that the West Chester Township Board of Trustees does hereby agree to:

SECTION 1. Extend the previously adopted moratorium and suspend issuance of a zoning certificate for a permitted or conditional use to operate an internet sweepstakes establishment until November 6, 2011.

SECTION 2. Direct the Township Administrator or her designee to continue the review of the proposed text amendments to the West Chester Zoning Resolution as required by the Ohio Revised Code.

SECTION 3. Suspend issuance of a zoning certificate until November 6, 2011, or such other date as may be determined by the Board of Trustees for the operation of an internet sweepstakes establishment but shall hold such applications for later consideration after this moratorium expires.

SECTION 4. It is found and determined that all formal actions of the Board of Trustees concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Board and that all deliberations of this Board of Trustees and of any of its committees that resulted in formal action were in meetings open to the public in compliance with all legal requirements, including 121.22 of the Ohio Revised Code.

SECTION 5. This Resolution constitutes an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, and for the further reason that the Board desires to prevent the proliferation of internet sweepstakes establishments within the unincorporated territory of the Township until the effect of this business enterprise on West Chester Township is reviewed, and for these reasons, this Resolution shall be effective upon its passage per Ohio Revised Code Section 504.11.

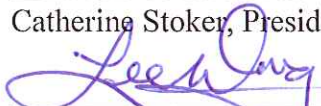
This Resolution shall be adopted as an emergency necessary for the immediate preservation of the public peace, health, safety, or welfare of the community and shall become effective at the earliest date permitted by law.

Adopted this 26th day of July, 2011.



Catherine Stoker, President

YES
Yes / No



Lee Wong, Vice President

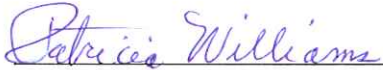
Yes
Yes / No



George Lang, Trustee

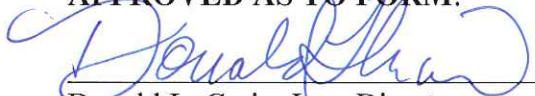
YES
Yes / No

ATTEST:



Patricia Williams, Township Fiscal Officer

APPROVED AS TO FORM:



Donald L. Crain, Law Director