

Record of Proceedings: **February 23, 2016**
West Chester Township Board of Trustees - Regular Meeting

Convene: President Welch convened the meeting at 6:01 p.m.

Roll Call: Mr. Welch, Mr. Lang, and Mr. Wong responded.

Pledge of Allegiance: Repeated by those present.

Citizen's Comments

Chris Wunnenberg, 6355 Centre Park Drive, Vice President for Development for Schumacher-Dugan, expressed his appreciation to the Board for starting the process to designate no parking areas on Wunnenberg Way and Shepherd Farm Drive. He commented how tractor trailers park along these streets and the problems experience by local businesses. Furthermore, the streets were designed to be 32' wide, but not designed with tractor trailer traffic in mind, thereby posing a safety hazard for oncoming vehicles. Mr. Wunnenberg also recognized that the police department cannot do anything about truck parking along these streets until signage is approved and posted by the township that prohibits it.

Presentations

There were no presentations.

Action Items – For Approval by Motion

MOTION made by Mr. Lang, seconded by Mr. Wong, to approve the 2016 Operational Budget Work Session Minutes for January 26, 2016. Discussion: none. **Motion carried unanimously.**

MOTION made by Mr. Lang, seconded by Mr. Wong, to approve the Trustee Meeting Minutes for February 9, 2016. Discussion: none. **Motion carried unanimously.**

MOTION made by Mr. Lang, seconded by Mr. Wong, to approve payment of bills. Discussion: none. **Motion carried unanimously.**

Mrs. Boyko submitted the following requisitions greater than \$2,500:

Requisitions – Greater than \$2,500.00

1. Adm \$52,000.00 IVideo Technologies LLC – Purchase NewTek video production system to allow for multi-camera video shoots for community and educational programming
2. Adm \$29,725.00 Butler County Sheriff's Office – Purchase annual radio maintenance
3. Adm \$23,186.28 Butler County Emergency Management Agency – Remit annual fee for operational services
4. Adm \$5,018.00 The Ohio State University – Renew annual license and support agreement for OARnet VMWare server virtualization
5. Adm \$3,825.00 Center for Local Government – Renew membership for 2016

- 6. Fire \$5,900.00 Ohio Fire Chief's Association – Conduct assessment center testing for Shift Captain replacement
- 7. Fire/Services \$2,808.15 John Dsuban Spring Service – Replace parts and repair Fire Vehicle 797 and Maintenance Truck 22
- 8. Services \$142,380.00 Cargill Inc. – Purchase road salt at 2015-2016 winter season prices (Increase PO #S153397)
- 9. Services \$3,250.00 Univar USA Inc. – Purchase liquid calcium chloride at 2015 – 2016 winter season prices (Increase PO #S153396)

MOTION made by Mr. Wong, seconded by Mr. Lang, to approve payment of requisitions 1 through 9. Discussion: none. **Motion carried unanimously.**

Personnel Items

Mrs. Boyko introduced the next item saying it is due to a retirement. She commented that the revised job description was to clean up the job description and make it more specific, and they'll be continuing to revise job descriptions and submitting for Board approval as they fill vacancies. **MOTION** made by Mr. Lang, seconded by Mr. Wong, to approve the revised job description for Communications Officer as illustrated in the attached supporting documentation and to hire Deana Berg to the position of Communications Officer effective March 8, 2016 at the annual salary of \$42,150.65 per the collective bargaining agreement with a one (1) year probationary period, and contingent upon successful completion of applicable testing and procedures. Discussion: none. **Motion carried unanimously.**

Mrs. Boyko introduced the next item saying the Board approved 73 part-time Firefighter /EMT positions, 17 of which are vacant at this time. **MOTION** made by Mr. Wong, seconded by Mr. Lang, to hire two (2) part-time Firefighter /EMTs, David L. Chaney, Jr. and Matthew J. Metzner, to fill vacant positions effective February 26, 2016, at the hourly rate of \$16.25 with a one year probationary period and contingent upon successful completion of applicable testing and procedures. Discussion: none. **Motion carried unanimously.**

Business Items

Mrs. Boyko prefaced the next item saying the Township was approached by the developer of the property with safety concerns. **MOTION** made by Mr. Lang, seconded by Mr. Wong, to commence process to establish a no parking zone on both sides of Shepherd Farm Drive and Wunnenberg Way and schedule a public hearing for March 22, 2016 at 7:00 p.m. Discussion: none. **Motion carried unanimously.**

Mrs. Boyko introduced the next item saying a previous Board approved a lease agreement in March, 2013 with the Board of the National Voice of America Museum of Broadcasting to manage, operate, and maintain the Voice of America facility. Though the lease agreement requires the VOA Board to be self-sustaining, the Board has approved a financial contribution based on a declining schedule.

MOTION made by Mr. Lang, seconded by Mr. Wong, to approve 2016 financial contribution of \$50,000 to the National Voice of America Museum of Broadcasting. Discussion: Mr. Lang said something needed to be done to avoid the facility from becoming a financial burden to the Township, consequently the Township Board agreed to make a financial contribution in exchange for the VOA Board taking on the day to day operation and upkeep of the building. He said the Township agreed to a five year, declining contribution of \$85,000, \$75,000 and \$50,000 each of the last three years, and they're currently in the fourth year of that five year agreement. He said it was critically important to give the VOA Board every opportunity to be successful so they can maintain the building and become self-sufficient. Mr. Wong commented that the building was a national treasure, a landmark in the Township, and it was important to do our best to maintain it. Mr. Lang responded saying the VOA was hallowed ground. Mr. Welch agreed with them. **Motion carried unanimously.**

Mrs. Boyko introduced the next item saying REDI Cincinnati was the regional entity charged by the Governor's Jobs Ohio program to be the Governor's assigned metropolitan chamber in this region to distribute, incentivize and facilitate economic development. Last year was the first year the Board increased its contribution level to REDI Cincinnati and they're now considering increasing its' contribution. Lastly, she said they've identified performance measures/metrics to support the return on investment.

MOTION made by Mr. Wong, seconded by Mr. Wong, to approve 2016 Steward Investor level of \$20,000 to REDI Cincinnati for regional economic development initiatives. Discussion: Mr. Lang said he was not a supporter of Jobs Ohio, but he does support greater Cincinnati. He said REDI Cincinnati represents us in bringing world-wide economic development opportunities to greater Cincinnati, and is a means of significantly leveraging our contribution. He recognized some of REDI Cincinnati's economic development contributions to West Chester. Mr. Wong said it leverages our economic development opportunities and gives West Chester insight into what's going on. He termed it a win-win for all. Mr. Welch observed a 20% increase in jobs between 2014 and 2015 attributable to REDI Cincinnati, as well as a 675% increase in networking in that same time frame. **Motion carried unanimously.**

MOTION made by Mr. Lang, seconded by Mr. Wong, to approve 2016 Silver Sustaining Sponsorship of \$5,000 to the West Chester-Liberty Chamber Alliance. Discussion: Mr. Lang said this amount is a reduction from the \$10,000 historically given the Chamber Alliance. **Motion carried unanimously.**

MOTION made by Mr. Wong, seconded by Mr. Welch, to appoint Chris Cavens to the West Chester Board of Zoning Appeals to fill an expired five (5) year term (March 1, 2016 through February 28, 2021). Discussion: Mr. Lang observed Mr. Caven's experience on the Board of Zoning Appeals as an alternate the past two or three years, adding that Chris had proven to him that he was ready to step into that position. Mr. Welch said Chris Cavens was the kind of person they want on the Board because he's a business owner, resident, and a "free thinker". **Motion carried.** Mr. Wong dissented.

(Fiscal Officer Note: Concurrent with the motion by Mr. Lang to appoint Chris Cavens, Mr. Wong nominated Barb Reisner. Mr. Welch seconded the motion made by Mr. Lang. There was not a second on the nomination made by Mr. Wong. Consequently there was but one vote taken, and that vote was on the motion to appoint Chris Cavens which subsequently carried.)

MOTION made by Mr. Lang, seconded by Mr. Welch, to appoint Randy Simons to the West Chester Board of Zoning Appeals to fill an expired three (3) year term (March 1, 2016 through February 28, 2019). Discussion: Mr. Lang noted that Randy was a long time business owner, active in the community, and attends Township meetings. Mr. Welch said Randy was a neighbor he's known since 1990, loves West Chester, and was thoughtful and considerate. **Motion carried.** Mr. Wong dissented.

Subsequently Mr. Lang said Ms. Reisenhower was extremely qualified, but they had five or six extremely qualified applicants, adding we were fortunate to have so many qualified people in West Chester. He also recognized Cliff Hackney for his service on the Board whose departure created the above full-time opening.

(Fiscal Officer Note: Concurrent with the motion by Mr. Lang to appoint Randy Simmons, Mr. Wong made a motion to nominate Barb Reisenhower. Mr. Welch seconded the motion made by Mr. Lang. There was not a second on the nomination made by Mr. Wong. Consequently there was but one vote taken, and that vote was on the motion to appoint Randy Simmons which subsequently carried.)

MOTION made by Mr. Lang that, having reviewed the staff report and affidavit, we declare the property located at 8128 Fox Knoll Drive to be a public nuisance as authorized by the Ohio Revised Code. Staff is directed to cause removal of the nuisances identified, and monitor these properties for 90 days to require continued compliance. An administrative charge of 25% shall be added to the contractor fee for these properties. Motion seconded by Mr. Wong. Discussion: none. **Motion carried unanimously.**

Mrs. Boyko introduced the next item saying the Fire Department received a \$3,500 grant last year for their purpose, the maximum is \$6,0000, and it does not require matching funds.

MOTION made by Mr. Lang, seconded by Mr. Wong, to apply for the Ohio EMS and Trauma Grant and to authorize the Township Administrator to accept grant if awarded. Discussion: Mr. Wong expressed appreciation that this grant did not require matching funds. **Motion carried unanimously.**

MOTION made by Mr. Lang, seconded by Mr. Wong, to not object to a liquor permit transfer from Beckett Spirits Inc., DBA Beckett Wine & State Liquor Agency, 8212 Princeton Glendale Road, to Intime Solutions 514 LLC, 8212 Princeton Glendale Road. Discussion: none. **Motion carried unanimously.**

Mrs. Boyko prefaced the next item saying this item was presented as part of the recent Budget Work Session for which \$300,000 was budgeted to replace approximately 20 corrugated steel pipes.

MOTION made by Mr. Lang, seconded by Mr. Wong, to advertise for 2016 storm water pipe replacement contract (CIP #961). Discussion: none. **Motion carried unanimously.**

First Reading of Resolutions & Reading of Emergency Resolutions

Mr. Welch read Resolution No. 07-2016, adopting and certifying the Township 2016 permanent appropriations and authorizing the transfer of funds from the general fund to the road and bridge fund and to the cemetery fund, and declaring an emergency and dispensing with

the second reading. The Board had no questions.

Citizen's Comments

Mr. Welch asked that anyone in attendance who wanted to speak regarding the consent decree related to the proposed Kroger development wait until the hearing at 7:00 to comment.

Mark Haverkos, 7356 Wethersfield Drive, commented on Mr. Wunnenberg's comments about truck parking. He cited several Township businesses that have been actively keeping trucks from parking on their premises; consequently they'll look for other locations to park. The problem may be a bigger problem than the two streets currently at issue.

Second Reading & Vote on Pending Resolutions & Vote on Emergency Resolutions

MOTION made by Mr. Lang, seconded by Wong, to declare Emergency Resolution No. 07-2016 an emergency and dispense with the second reading. Discussion: none. **Motion carried unanimously.**

MOTION made by Mr. Lang, seconded by Mr. Wong, to approve Resolution No. 07-2016 as read and as already declared an emergency. Discussion: none. **Motion carried unanimously.**

Discussion Items & Elected Official Comments

Regarding Mr. Haverkos's comment, Mr. Wong made a distinction between the property the Board was acting upon, recognizing it was public property, and the businesses Mr. Haverkos identified, which were acting on their private property.

Recess to Executive Session

At 6:35 p.m., Mr. Welch asked for a motion to recess the Regular meeting and go into Executive Session with legal counsel for the purpose of considering and discussing (1) personnel matters: (a) discipline, termination, or promotion, hiring, or transfer of a current or candidate public employee; (b) provision of benefits for contract employees, (2) Acquisition, sale, or swap of real property, (3) Current and pending litigation. Motion made by Mr. Lang, seconded by Mr. Wong. Discussion: Mr. Welch said the Board would return at 7:00 p.m. from the recess to adjourn the Executive Session, and resume to consider and take action on the consent decree, Crossings of Beckett, Silverman and Company. **Motion carried unanimously.** Mr. Welch declared the meeting in recess until 7:00.

Post Executive Session

MOTION made at 7:03 p.m. by Mr. Lang to adjourn the Executive Session and resume the February 23rd meeting for the purpose of considering and taking action on a consent decree with

Silverman and Company, Crossings of Beckett Development, seconded by Mr. Wong.
Discussion: none. **Motion carried unanimously.**

Consent Decree - 7:00 p.m. Public Hearing
Crossings of Beckett – Silverman and Company, Inc.

Mr. Welch said the Board of Trustees intended to consider and take action pursuant Ohio Revised Code 505.07 on a proposed consent decree to settle a court action to rezone property previously under Zoning Map Amendment application and Preliminary Development Plan, Case No. ZMA 05-13, Crossings of Beckett, involving property situated at the southeast corner of Princeton-Glendale and Tylersville Roads in West Chester Township. All statutory requirements for notice and legal advertisements had been made. Mr. Welch proceeded to give the history of Case No. 05-13 leading up to the proposed consent decree, negotiated for the purpose of resolving pending litigation. Mr. Welch said the Board would hear from the Township's counsel followed by comments from anyone regarding the matter, but asked that repetitive comments be limited as much as possible, and that comments be limited to less than three minutes. The Township's special counsel for zoning matter, Scott Phillips, was then introduced by Mr. Welch to present the proposed consent decree.

Mr. Phillips gave the history of the property's proposed development, the process by which the proposed resolution to the pending lawsuit was developed, presented the consent decree with a brief PowerPoint presentation (see attached slides 1 through 5), and answered questions from the Board. Subsequently the plaintiff's attorney, Richard Trantor, was asked if he wanted an opportunity to speak. Mr. Trantor responded that he thought Mr. Phillip's description of the process was accurate.

Mr. Welch then asked if any resident, property owner, or business owner would like to speak either for or against the propose consent decree.

Carol Lucidy, 8505 Park Place Circle, expressed concern that trucks would access Kroger via an access road off Beckett Road, and asked that the Butler County Engineer's Office re-evaluate their approval of the road due to safety concerns. She also expressed concern that the buffer zone in Phase 2 would not get completed if Silverman did not develop that phase and the buffer concurrent with Phase 1.

Mark Haverkos, 7356 Wethersfield Drive, said the presented graphics were deceiving because the size of the trees was exaggerated. Rather, Kroger plants 3 inch twigs which will not provide buffering. He cited examples of current zoning violations, and suggested the buffer should be completed before a certificate of occupancy is issued rather than afterward.

Deb Lawrence, 7399 Wethersfield Drive, focused on "safety, traffic, noise". She was concerned that kids could be walking along Tylersville from the Freshman School where there would be no sidewalks. She questioned the credibility of the safety study, adding that safety must be addressed.

Angie Kemme, 7399 Walnut Creek Drive, questioned if the traffic study factored in the fact it was only two lanes along Tylersville. She also said she was concerned with property values in their neighborhood as well as safety.

Matt Terrell, 7833 Hollow Oak Court, said traffic was a huge concern, noting a lot of kids walk along Beckett Road to/from the Freshman School. Light pollution and the vacancy of the existing Kroger store were other concerns.

Phil Shaffer, 4584 Kohls Court, questioned the planning for the subject land and was concerned with safety near the Freshman School given the lack of sidewalks.

Len Applegate, 7572 Overglen Drive, observed the numerous abandoned Kroger stores in the area and told the Trustees they should require Kroger to upgrade their current store.

Stan Juergens, 5047 Westsand Court, expressed concern about three things, (1) ingress/egress from the store to/from Tylersville store, (2) the sufficiency of the required \$250,000 bond for completion of the Phase 2 buffering mound, and (3) whether or not Kroger would release their lease options on the existing location, which he understood extended for another 25+ years, and what would happen to that location.

Daniel Hinthorn, 3333 Richmond Road, Suite 350, Beechwood, Ohio, 44122, spoke on behalf of Mid-American Management Association, the owners of Beckett Commons Shopping Center. He confirmed that Kroger would be in control of their current location for the next 25 years. He was concerned that Kroger would "sit on that space". He also questioned whether Silverman was committed to developing Phase 2.

Steven Hunt, 2200 US Bank Center, Cincinnati, spoke as an attorney with Aronoff, Rosen & Hunt which represents Hutzelman Farms Inc., the development adjacent the proposed Kroger to the west. He expressed support for the project.

Dale Hutzelman, 5050 Huntington Circle, spoke on behalf of his family, the owners of the subject property. He gave the history of the property and Union/West Chester Township's development. He said they never complained about development or asked for concessions from the developers. He commented that the Tri-Health development was not required to have a buffer, adding that the agreement the Trustees were to consider entailed a series of concessions, including a 5 acre green space along Tylersville Road. He asked their neighbors to respect their property rights to develop their land responsibly, and their efforts to address reasonable community concerns. He concluded by asking the Trustees to approve the settlement agreement that evening.

Dawn Mansour, 7415 Foxchase Drive, suggested the out lots will be very unattractive and asked the Trustees to question the design as well as the potential for vacancy at the current location.

Tim Laba, 4883 Brantford Court, said the Township should negotiate a release of the current Kroger location by Kroger into the consent decree. He also took issue with the aesthetics and practicality of the proposed berm, as well as traffic flow. He said the three out lots on Tylersville could have pitched roofs. He concluded by expressing his appreciation to the Board for "going to bat" for the residents in the previous hearing on this matter.

Mr. Welch asked his peers if they had any questions or need for clarification from staff:

Mr. Lang asked if there was anything Township could do to restrict truck traffic on the access road to Becket Road. Mrs. Boyko received confirmation from Mr. Juengling that the access road would be a private road, consequently the owners could implement restrictions. She said they could not impose restrictions if it were public or enforce restrictions as a private drive.

Subsequently there was discussion about the various means of accessing the new Kroger from each direction. Mr. Lang asked Scott Phillips to address the feasibility of the bond requiring the buffer on Phase 2 and the 90 day requirement for the berm following the occupancy permit. Mr. Phillips said they used a site development expert to advise them regarding the buffer on Phase 2,

and the expert was quite comfortable with the current requirement. Regarding the occupancy permit being granted before the berm being constructed, Mr. Phillips said construction and financing considerations were factored and this was the best they could negotiate. Mrs. Boyko said they would be in violation of the consent decree if they did not fulfill the agreed upon terms. Mr. Lang asked Mrs. Boyko about sidewalk installation in the area. She said this development as well as the Epcon property on Beckett Road are required to install sidewalks, thus there will be sidewalks along these two developments, though she didn't know the timeline. There was subsequent discussion about potential future sidewalk development in the immediate area. Mr. Wong asked about the existing Kroger site once vacated: Mr. Phillips said the Township has no authority to condition approval of one zoning upon what happens to an existing building. He said that would be "inconsistent with law". To Mr. Welch's question, Mr. Phillips said the degree would be binding upon any party that develops that property. Mrs. Boyko elaborated. Mr. Phillips commented on landscaping requirements. He said the consent decree entails what the Board, by its' own testimony at a previous hearing required. They would have approved the previous proposal if it included the terms embodied in the decree before them. Mr. Welch and Mrs. Boyko said concerns that the 747 and Tylersville intersection is exceptionally dangerous have since been addressed with signalized timing. Mrs. Boyko commented on the role and responsibilities of a POA for the development.

As the Board had no more questions, Mr. Welch asked Mrs. Boyko to read Resolution 06-2016: "Statutory Resolution 06-2016: Resolution approving and entering into a consent decree and authorizing submission to the Butler County Court of Common Pleas for approval pursuant to and compliant with Ohio Revised Code section 505.07 to settle court action to rezone property previously under Zoning Map Amendment application and Preliminary Development Plan case No. ZMA 05-13 Crossings of Beckett." Subsequently Mrs. Boyko summarized the Resolution, though reading the conclusion as follows: "**WHEREAS**, the West Chester Township Board of Trustees, having heard from the public and weighing all input on the matter, finds the proposed consent decree is fair and reasonable; satisfies the concerns raised by the West Chester Township Board of Trustees when it initially denied the Application; will preclude further costs related to litigation of this matter; and on the whole is in the best interest of the Township; **NOW THEREFORE, BE IT RESOLVED**, the West Chester Township Board of Trustees does hereby agree to:

SECTION 1. Approve the proposed consent decree attached hereto as Exhibit 1.

SECTION 2. Direct the West Chester Township Administrator and legal counsel to enter into the proposed consent decree on behalf of West Chester Township, and to submit the same to the Butler County Court of Common Pleas for its consideration and approval pursuant to R.C. 505.07.

SECTION 3. Find and determine all formal actions of the Board of Trustees concerning and relating to the adoption of this resolution were adopted in an open meeting of this Board and all deliberations of the West Chester Township 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 4. Constitute this resolution to be effective immediately". Thereupon . . .

MOTION made by Mr. Wong, seconded by Mr. Lang, to approve statutory Resolution 06-2016 approving and entering into a consent decree and authorizing submission to the Butler County

Court of Common Pleas for approval pursuant to and compliant with Ohio Revised Code section 505.07 to settle court action to rezone property previously under zoning map amendment application and preliminary development plan Case No. ZMA 05-13, Crossings of Beckett.

Discussion: Mr. Wong said this issue came up about two years ago, they turned the application down, were required to provide reasons for turning the it down, and those two reasons were the buffer and the conditions for the Land Use Plan. He said the only reasons they were there that evening was to entertain the resolution and the decree. He spoke about the countless number of hours the attorneys and Trustees discussed this matter, trying to find the best solution. Mr. Wong said this matter is about the developer/applicant installing the buffer in a timely manner and meeting the conditions of the Land Use Plan. The developer is now ready to install a buffer in a timely manner and address concerns of adjoining residents: impacts generated by the development and plans to mitigate those impacts, for instance road improvements; storm water drainage and protection of the stream; commercial lighting, cross access easements; pedestrian amenities; and landscaping. Mr. Wong concluded by saying he believed the terms of the decree mitigated the impact to surrounding properties and the proposed plan was consistent with the Community Mixed Use designation of the Township's Land Use Plan.

Mr. Lang gave a detailed history of the application, noting most recently, that on April 9, 2014, Silverman filed an administrative appeal of the decision of the Trustees to the Butler County Court of Common Pleas. On June 13, 2014 Silverman filed a complaint for declaratory judgment and on July 2, 2014 the Administrative Appeal and Declaratory Judgment Action were consolidated by the court; "the two became one". The only way the Community Mixed Use designation works is if the buffers are adequate to mitigate concerns for those existing and planned residential uses and if the buffers could be installed timely. He said he stated during the 2014 public hearing process the only way he could interpret that the buffering element and requirement of the Land Use Plan are achieved is if the Applicant/ developer constructs and installs a landscape buffer on the south side of Tylersville Road with Phase I. He noted the developer could not commit to him at the 2014 Public Hearing to develop Phase 2 at any time, and that told him, Mr. Lang, that the developer was not willing to do the adequate buffer as necessary by the Township's plan. All of the Trustees agreed at that hearing that the property would probably be developed, probably commercially, and it was only a matter of time. Subsequently, Silverman and the property owner approached the Board of Trustees to settle the ongoing litigation, and the Board was willing to listen. Mr. Lang said this matter is about the developer/applicant installing the buffer in a timely manner and meeting the conditions of the Land Use Plan. The developer is now ready to install a buffer in a timely manner and address concerns of adjoining residents: impacts generated by the development and plans to mitigate those impacts, for instance road improvements; storm water drainage and other things Mr. Wong had noted. The Applicant/developer responded with what he thought was an adequate buffer and the Applicant/developer committed to a reasonable installation schedule. Additionally, the proposed terms and conditions address the other concerns voiced by residents. He believes the terms and conditions and their associated requirements satisfy the development impacts to adjoining land uses and make the proposed plan consistent with the Community Mixed Use designation of the Township's Land Use Plan. Mr. Lang said parties may settle court action to rezone property through a consent decree pursuant Ohio Revised Code Section 505.07. To resolve litigation the Board of Trustees is publicly considering and probably taking action on the terms and conditions of the proposed Consent Decree.

The proposed terms and conditions of the consent decree generally align with the conditions considered during the zoning map amendment and Preliminary Development Plan (PDP) process. He said he believes the terms and conditions of the Consent Decree are substantively the same as the conditions considered during the zoning map amendment and PDP process. He observed that the Township had spent about \$300,000 on legal fees and that did not factor in all the time that had been spent on the lawsuit. He also said the property rights of the Hutzelmans and Smiths needed to be recognized. He concluded by saying he knew the decree wasn't perfect and there were things they needed to work through, but the majority of concerns expressed by the residents had been addressed, even if not to the degree of the resident's concerns. Compromise needed to be considered and neither party was happy with the terms of the settlement. He concluded by saying, assuming the motion passed, this action would be positive for the Lakota School District because a resident costs approximately \$1.40 to \$1.50 in services for every dollar they pay, they majority of which is for the schools. A business however costs about 40 cents in services because they are not "putting any pressure on the school district". He calculated a residential development at the subject location would have generated about \$399,000 in tax revenue, but the commercial development of Phase 1 will generate about \$572,000 in tax revenue. This will take pressure off residents when it comes to supporting a school levy. He said for the record he has not supported one in ten years.

Mr. Welch said he agreed with his colleges, noting the legal expenses. He also said the Township would be responsible for the other party's legal fees if the Township lost the suit. Mr. Welch also related his difficulty with traffic in his neighborhood and his belief Phase 2 will get developed.

Mr. Wong said the land will get developed eventually, reiterating Mr. Lang's observation that the tax revenue from commercial development will help us in the long run. Lastly, he said the removal of the pond - as in the current plan, where a pond existed in the original plan - will lessen the presence of geese in the area.

Thereupon the Board voted on the motion. **Motion carried unanimously.**

Recess to Executive Session

At 9:00 p.m., Mr. Welch asked for a motion to recess the Regular meeting and go into Executive Session with legal counsel for the purpose of considering and discussing (1) personnel matters: (a) discipline, termination, promotion, hiring, or transfer of a current or candidate public employee; (b) provision of benefits for certain contract employees, (2) Acquisition, sale, or swap of real property, (3) Current and pending litigation. Mr. Welch said the Board would return. Motion made by Mr. Lang, seconded by Mr. Wong. Discussion: none. **Motion carried unanimously.** Mr. Welch declared the meeting in recess.

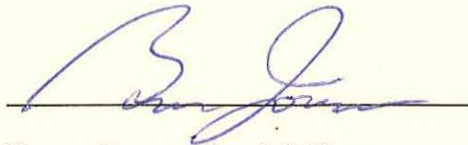
Post Executive Session/ Adjournment

MOTION made at 9:44 p.m. by Mr. Lang to adjourn Executive Session and resume the February 23rd Regular meeting, seconded by Mr. Wong. Discussion: none. **Motion carried unanimously.**

MOTION made at 9:44 p.m. by Mr. Lang to adjourn the Regular meeting, seconded by Mr. Wong. Discussion: none. **Motion carried unanimously.**

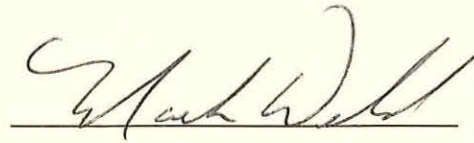
(Fiscal Officer Note: The preceding 10 pages are narrative minutes. The signatures of the Fiscal Officer and Board President appear immediately below, constituting the entirety of page 11. Following this page are three pages referenced herein as "slides" pertaining to the Public Hearing. There are a total of 14 pages in this document.)

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Bruce Jones", written over a horizontal line.

Bruce Jones, Fiscal Officer

Approved,

A handwritten signature in blue ink, appearing to read "Mark Welch", written over a horizontal line.

Mark Welch, President

TRANSITIONS TO OTHER PROPERTIES

- The buffer is the primary transition to north.
 - The goal is not to completely shield commercial development, but to transition to the more residential properties north.
 - Pitched roof requirement for northern outlet; building code contains requirements for pitched roofs, and the pitch will be determined with final plans.
 - Limited drive thrus – none on northern outlet.
- Properties behind Kroger will be buffered by streamline (approved by the County) and trees, fence, or wall.
- Other properties east (in Phase II) buffered by berms and stormwater basin

TRAFFIC

- Access to S.R. 747 via new traffic signal south of Tylersville road.
- Property south will have access to S.R. 747 via that traffic signal due to required negotiated cross-access easements.
- Access to Beckett Road by construction of new road.
- Access to Tylersville Road by right in, right out (in Phase II).
 - The County Engineer generally requires curb cuts like these to line up for safety reasons.

MISCELLANEOUS

- Lighting will minimize glare and spillover to other properties.
- Building materials will be 50% brick on all buildings.
- Sidewalks integrate this property with other surrounding properties and uses.
- This effectively constitutes approval of the rezoning and Preliminary Development Plan. All portions of the project other than the Phase I buffer still must go through the Final Development Plan approval process.