

Record of Proceedings: **October 8, 2013**
West Chester Township Board of Trustees - Regular Meeting

Convene: President Wong convened the meeting at 6:00 p.m..

Roll Call: Mr. Wong, Mrs. Stoker, and Mr. Lang responded.

Pledge of Allegiance: Repeated by those present.

Citizen's Comments

Carl Rullmann, 8285 Ventle Drive, read a portion of a Cincinnati Enquirer editorial entitled "Where's the money coming from for the bike lanes?" It suggested bike riders do not generate tax revenue to pay for the roads bikers use, unlike motorists. He also referenced an agenda item, a retire/rehire item which he referred to as "double dipping". He said the process is now rooted in the union contract and concluded by saying the process does not meet the core value of fiscal responsibility to taxpayers.

Jenny Rice, 8058 Red Mill Drive, spoke about a culvert under her property. She said they had a sinkhole about which she's worked with the Township and the Butler County Engineer's office, Adding that Tim Franck was very responsive and easy to work with. She said Mr. Franck sent her a letter dated October 1st that said the sinkhole had been fixed; subsequently she noted heavy rains in recent days re-opened the sinkhole in her front yard, exactly where the right-of-way ends. Ms. Rice said she was coming to the Board because she thought it felt "off" to repair just half of a failing pipe, expressed the options left for her, and asked the Board "to approve funding to fix the culvert as it should be for drain off purposes".

Steven Clark, 7392 St. Ives Place, said he previously asked the following question and would try to word it better: "With reference to businesses that provide goods or services to the Township or have zoning issues before the Township, is it appropriate for a current township Trustee to approach those businesses and solicit consulting positions when the Trustee has no other relationship with that business other than Township issues?" He also commented on the Eagleridge drive sidewalk construction costs, saying there were additional expenses above \$10 per sq. foot for curbs as well as two ramps that cost \$400 apiece. Lastly, he asked about the status of the Liberty Tax lawsuit, how much has been spent on it to date, saying it seems vindictive to pursue it given a very broad interpretation of the zoning code.

Presentations

The Auditor of State Award with Distinction was presented by Ms. Christa McCriddle on behalf of Ohio Auditor Yost. She explained the criteria required to receive the award. Mrs. Stoker said it was quite a tribute to Finance Director Ken Keim and his staff (Fiscal Officer note: Staff members are Michele Hunkler, Jayne Daunt, Julie Flake, and Kellie Byrd), and asked that he extend the Board's appreciation for their exceptional performance. Mr. Wong and Mr. Lang concurred.

Action Items – For Approval by Motion

There was no documentation of the September 24, 2013 meeting minutes.

MOTION made by Mrs. Stoker, seconded by Mr. Lang, 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 \$5,000.00 The Plant Detail – Design and install outdoor holiday light displays
2. Fire \$3,731.00 Viox Services, Inc. – Repair water leak at fire headquarters (CIP #1079)
3. Fire \$3,000.00 Physio-Control – Purchase five (5) sets of pediatric pulse ox sensors
4. Fire \$2,842.50 International Public Management Association for Human Resources – Purchase 175 entry-level firefighter tests
5. Services \$11,700.00 Southeastern Equipment Company, Inc. – Rent salt loader for 2013-2014 winter season
6. Services \$4,500.00 Red Wing Shoe Store – Purchase 20 pairs of safety work boots per collective bargaining agreement

MOTION made by Mrs. Stoker, seconded by Mr. Lang, to approve payment of requisitions 1 through 6. Discussion: none. **Motion carried unanimously.**

Personnel Items

Mrs. Boyko introduced the next item saying Assistant Police Chief David Kelly had requested to retire effective October 31, 2013 and be re-employed in his position effective 11/1/2013, and this public action fulfills statutory requirements.

MOTION made by Mrs. Stoker, seconded by Mr. Lang, to accept the retirement resignation of David Kelly and approve the rehiring in his current position pursuant to terms of the Employment Agreement. Discussion: Mr. Lang said Mr. Kelly has attained significant institutional knowledge in his 25 years in the West Chester Police Department and that he's part of the leadership team. He also stated the parameters for considering a retire/re-hire, and estimated the total savings to the Township as approximately \$23,200 per year or about 15% of his total compensation package. He said contributions to an employee's retirement fund are theirs once the contribution has been made. He termed it a win-win-win for Captain Kelly, the Township, and for taxpayers. Mrs. Stoker said the Township must offer competitive benefits in order to attract the best employees, and the retire/re-hire option is available in most every community in Ohio and the country. She also said that firefighters across this state have a similar option. "The biggest difference is that they [firefighters and EMTs] don't have to tell anyone about it. They can start collecting retirement benefits while on our payroll without us even knowing about it. It seems inappropriate that our emergency medical and firefighters have this option that our police personnel don't." Mr. Lang expressed his agreement, but noted the Township approved a contract 3 years ago with the police union that only required staff approval for a police retire/re-hire request if they were covered by the contract. Mr. Wong said Mr. Kelly had a stellar record, but as a retired member of the Army, he thought they should give newer

employees the opportunity to move up, thus he did not agree with the retire/re-hire request. Mr. Lang, referencing the last union contract, asked Mr. Wong how he could support it for the rank and file, but not for the department leadership. Mr. Wong said he did not approve it before, and Mr. Lang said he in fact voted to approve the union contract. Mr. Wong disagreed, but said he could change his mind. **Motion carried** with Mr. Wong voting in opposition, and Mrs. Stoker and Mr. Lang voting in favor. Mr. Lang added that Captain Kelly's son is the starting center for the University of Alabama football team, the reigning national champion.

Business Items

MOTION made by Mr. Lang, seconded by Mrs. Stoker, to accept the donation of SWAT ballistic helmets from Hamilton County Emergency Management Agency through a Homeland Security UASI Grant. Discussion: none. **Motion carried unanimously.**

MOTION made by Mr. Lang, seconded by Mrs. Stoker, to not object to a liquor permit transfer from Wine Rack of West Chester, Inc. to Biff Mohammed Inc., DBA The Wise Owl Wine Bar & Patio at 6206 Muhlhauser Road. Discussion: none. **Motion carried unanimously.**

Mrs. Boyko introduced the next item saying the motion was to accept the identified streets in West Chester Village, Section 11, Town 2, Range 2 to be dedicated and journalized at 25 miles per hour and with notation, all landscaping and decorative signs are the responsibility of the HOA where applicable, adding that the Board's documentation identified the feet and miles of the subject streets.

MOTION made by Mrs. Stoker, seconded by Mr. Lang, to accept the following streets in West Chester Village, Section 2, Town 2, Range 2 to be dedicated and journalized at 25 miles per hour as described by Mrs. Boyko, those being Vegas Circle, Vegas Court, and Jeanne's Creek Lane. Discussion: none. **Motion carried unanimously.**

MOTION made by Mrs. Stoker, seconded by Mr. Lang, to approve statutory Resolution No. 18-2013 authorizing the removal of snow and ice from undedicated roads in accordance with Ohio Revised Code Section 505.82 Discussion: none. **Motion carried unanimously.**

First Reading of Resolutions & Reading of Emergency Resolutions

There were no first readings of resolutions or readings of emergency resolutions.

Citizen's Comments

Mark Morris, 8876 Eagleview Drive, said the Trustees were asked at the last meeting why they voted to remove the legal expenses from their meeting agendas, adding that he's since learned the Township pays a \$6,000 monthly retainer plus legal fees. He repeated the question, speculating that the reason might be that they don't want people to know how much they spend, specifically identifying the lawsuit with Liberty Tax. He also speculated that it doesn't look good for voters to be pressuring the Trustees during this election year. He told the Trustees it was the resident's money and they have a right to know what they were spending for legal fees.

He concluded by saying people do not respect politicians because they spend too much time governing in a gray area instead of a black and white.

Carl Rullmann, 8285 Ventle Drive, said he brought up at the last meeting - though not for the first time - the Board's lack of transparency in handling transactions for the Township. He specifically cited thousands of dollars of legal fees that never appear on the agenda for approval. He said Mrs. Boyko responded by suggesting there was a legal non-necessity for disclosing this information, given the ongoing or recurring nature of the legal bills. He said the Board however did not respond to the subject. He said he did not think that many questions or situations for which they require legal cover are ongoing or recurring, citing recent Township lawsuits. He said he wanted the legal bills returned to the agenda. Mr. Rullmann also said he requested at the last meeting the total amount spent for legal expenses in 2012 and through August of this year, and asked that they be read into the record as previously requested. He asked if the citizens were entitled to see all the expenses greater than \$2,500 or not. He concluded by telling the Board it's not nice or proper to hide information from the people they work for.

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

There were no second readings & vote on pending resolutions, or vote on emergency resolutions.

Discussion Items & Trustees Comments

In response to citizen's comments, Mrs. Boyko first responded to Ms. Rice's concern, saying the Township had been very engaged with her during their work, and that the pipe beyond the right-of-way, on Ms. Rice's property, was her responsibility. She added that the Township's repair/replacement work did not correlate to damage to Ms. Rice's property. Mrs. Boyko understood that Services Director Franck was going to meet with Ms. Rice, consequently there was no final position to share with the Trustees, but reiterated that the Township was only responsible for what occurred in the right-of-way.

Lastly, she said it's been the position of the Board and previous Boards that storm water systems on private property are the responsibility of the homeowner. Mrs. Stoker asked for a report after Mr. Franck met with Mrs. Rice, and cited an example wherein Colerain Twp. realized liability for performing work on private property even though the property owner previously provided a waiver. She said there needs to be a legislative solution to these kinds of situations.

Mrs. Boyko apologized to Mr. Rullmann for having not fulfilled his information request for legal bills and said he'll have them before the evening was over. The action to remove the legal bills from the agenda was staff initiated and not based on any direction from the Board of Trustees, adding that Mr. Keim said the Ohio Revised Code deemed legal bills as recurring, like utility bills, thus they need not be publically approved. She then asked the Law Director if this interpretation was correct, he concurred, and she, Mrs. Boyko then approached the Board asking if they would like to "transition the legal fees"/remove them from the agenda. There was dissent among the Board, but a majority of the Board agreed to removing the legal bills from the agenda. She reiterated that the idea was initiated by staff. Mr. Lang said, though it was staff initiated, it was the Board that directed it. He said he was the one Board member that wasn't comfortable with removing the legal bills because he said it looked like a lack of transparency

and that they were trying to cover something up. He added that they have a lot of legal bills, but he thought they have the best legal representation in southwest Ohio, that saves the Township a lot of money many times over, and he estimated they would spend twice as much to in-source legal representation. He said they don't want a discount lawyer in legal battles, adding that he thought they should put the legal bills back on the agenda because they have nothing to hide. Mrs. Stoker said she had no problem with that, they were removed as a convenience, and all the Township's records are available to the public all the time, so nothing is being hidden. Mrs. Boyko interjected that staff was not doing anything clandestine, but Mr. Keim just wanted to make sure the legal bills were paid timely and the vendor not have to wait. Mrs. Stoker said the idea didn't float too well, staff had the direction of the Board, so the legal bills should be put back on the agenda. Mr. Wong concurred. The Board directed Mrs. Boyko to read the legal bills requested by Mr. Rullmann into the public record at the next meeting as he requested.

Mrs. Stoker responded to the citizen comment about the Liberty Tax suit, saying it was inappropriate to discuss pending litigation, but she didn't think it inappropriate to note that the Township was in court because Liberty Tax sued the Township, not vice-versa. Mr. Wong added that the first ruling found that the Township was enforcing the zoning code. Mrs. Stoker said every decision so far has been in the Township's favor. When asked the amount of legal expenses in this matter, a disparity was recognized between the Township's legal fees and that of the insurance company. Subsequently there was a brief discussion about the need for litigation.

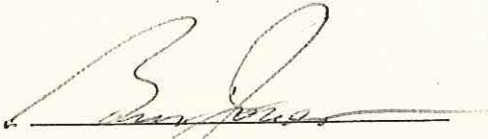
Mr. Lang, in response to Mr. Clark's comments, said a Trustee doesn't need to disclose if they approach a West Chester business to do business with them, but the Trustee must disclose the relationship if they in fact do business with a West Chester business and a matter pertaining to that business comes before the Board. Mrs. Stoker expressed agreement, adding that the Trustee would recuse themselves from a vote. She said there's no problem with business people soliciting business from other business people. Mr. Lang concluded by noting Pumpkin Fest would be on October 19th.

Mr. Wong noted the passing of former West Chester Trustee David Tacosik several weeks earlier, whose service to West Chester residents preceded that of Mr. Lang.

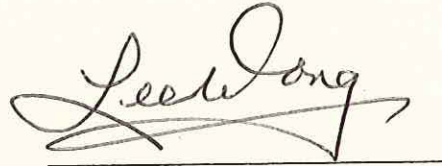
Mrs. Stoker observed that Mrs. Boyko would be honored on October 9th by Lead magazine as a recipient of a Woman of Influence Award, class of 2013, expressing praise for her work ethic and significant accomplishments. Mrs. Stoker also said that Mrs. Boyko would be recognized on October 15th by the Greater Hamilton YMCA as a Woman of Professional Excellence, as selected by The West Chester Hospital. (Fiscal Officer note: Mrs. Boyko was recognized by the YWCA Hamilton).

Adjournment

At 6:55 p.m. Mr. Wong asked for a motion to adjourn the Regular meeting and go into Executive Session with legal counsel for the purpose of considering and discussing (1) personnel matters, (a) discuss contract negotiation for a certain collective bargaining unit, (b) review provisions of benefits for non-contract and contract employees. (2) Acquisition, sales, or swap of real property. The Board would not return. Motion made by Mr. Lang, seconded by Mrs. Stoker. Discussion: none. **Motion carried unanimously.**



Bruce Jones, Fiscal Officer



Lee Wong, President