

Record of Proceedings: **October 14, 2014**
West Chester Township Board of Trustees - Regular Meeting

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

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

Pledge of Allegiance: Repeated by those present.

Mr. Lang then declared that agenda item #17 had been removed because the applicant had withdrawn their application, though they'll re-apply after "tweaking" some aspects of their application. He said the withdrawn agenda item was Resolution No. 23-2014 approving a Zoning Map Amendment from "R-1A" to "R-PUD" and Preliminary Development Plan for Case #ZMA 03-14 – Villas at Park Place Expansion.

Citizen's Comments

There were no citizen's comments.

Presentations

Jonathan Granville, Executive Director of the Butler County Metroparks, gave a status update on the VOA Park. He acknowledged delays in development, provided a history of the park's development, and gave an update specifically on the development of Phase 1: construction of 22 athletic/multi-purpose fields. He said there were 2 recent tournaments at the park, each bringing in over 6,000 people from a 2 or 3 state area, suggesting significant economic impact. Mr. Granville also said he hoped to report on a new amphitheater by the lodge in a year or so. He said the park was developing in phases such that costs are not borne by local taxpayers: \$1 million of the \$3 million cost for Phase 1 was coming from the Butler County Visitors Bureau. He commented that their original economic impact study said build-out of Phase 1 would result in \$26 million per year in additional business activity. He credited Senator Bill Coley for securing a \$1 million grant from the state capital budget that will enable installation of 2 all-season fields among the 22 fields. Furthermore, he said UC Physicians/West Chester Hospital will sponsor construction of a field house by 2016. Lastly, he said it appears about 40% of the \$7 million to be spent on the park in the next 2 years will come from outside either the township's or Metropark's budget.

In response to Mr. Wong's question, Mr. Granville said the gravel roads will eventually be paved. In response to Mr. Welch's question, Mr. Granville said there's a comparable facility in Kentucky and north of Indianapolis. He said ball fields will probably be a part of Phase 2. Mr. Lang congratulated Mr. Granville for the progress and the partnerships Metroparks has forged with The Butler County Visitors Bureau and UC Hospital.

Action Items – For Approval by Motion

MOTION made by Mr. Welch, seconded by Mr. Wong, to approve the Trustee Meeting Minutes of September 23, 2014. Discussion: none. **Motion carried unanimously.**

MOTION made by Mr. Wong, seconded by Mr. Welch, 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 \$30,591.20 Frost Brown Todd LLC – Legal services through August 31, 2014
(various departments)
2. Adm \$5,251.00 The Plant Detail – Design and install outdoor holiday lighting and
seasonal displays on Township property
3. Fire \$15,976.80 Kronos Incorporated – Renew annual service and support for TeleStaff
scheduling payroll functions of public safety departments
4. Services \$12,000.00 Southeastern Equipment Company, Inc. – Rent salt loader for 2014-
2015 winter season
5. Services \$7,000.00 Winter Equipment Company, Inc. – Purchase snow plow parts
6. Services \$6,300.00 Peru's Tree Service – Remove selected trees from Jeffras Cemetery
7. Services \$4,950.00 Red Wing Shoe Store – Purchase 22 pairs of safety work boots per
collective bargaining agreement

MOTION made by Mr. Wong, seconded by Mr. Welch, to approve payment of requisitions 1 through 7. Discussion: Mr. Wong asked Mrs. Boyko to explain item 7, noting the cost and asking for which department was this expenditure. She said they were heavy duty work boots purchased by the service department. Mr. Lang asked if the township obtained permission from all the property owners for item 6, recalling an earlier issue with an adjoining property owner by Jeffras Cemetery. **Motion carried unanimously.**

Personnel Items

Mrs. Boyko introduced the next item saying she was asking to reclassify a seasonal employee in the Roads and Services Division, extending his service due to the disability resulting from a personal injury of another seasonal employee.

MOTION made by Mr. Welch, seconded by Mr. Wong, to change status of and extend seasonal employment for Mr. Mike Capella through October, 2014 at the same hourly rate of \$11.25.

Discussion: none. **Motion carried unanimously.**

Business Items

Mrs. Boyko introduced the next item saying the agreement codifies the responsibilities and terms of all parties to the project.

MOTION made by Mr. Wong, seconded by Mr. Welch, to approve and enter into an Intergovernmental Project and Funding Agreement by and among Butler County, Ohio, the Butler County Engineer's Office, Butler Technology and Career Development Schools and West Chester Township, Butler County, Ohio in substantially the same form as attached and to authorize the Township Administrator to make non-substantive changes with law director

approval, and to execute said agreement and all other necessary documents. Discussion: none. **Motion carried unanimously.**

Mrs. Boyko introduced the next item saying the agreement codifies the responsibilities within the landscape areas.

MOTION made by Mr. Welch, seconded by Mr. Wong, to approve and enter into a Landscape Maintenance Agreement by and among Butler Technology and Career Development Schools, Lakota Lake, LLC, and West Chester Township, Butler County, Ohio in substantially the same form as attached and to authorize the Township Administrator to make non-substantive changes with law director approval, and to execute said agreement and all other necessary documents. Discussion: none. **Motion carried unanimously.**

Mrs. Boyko introduced the next item saying the proposed increase was derived from the Center for Medicare and Medicaid Center data. She said township residents would not receive a bill – only their insurance company would be billed. Non-residents, however would be billed first and be liable for any non-payment by their insurance company, though they would not be billed more than three times.

MOTION made by Mr. Wong, seconded by Mr. Welch, to approve the 2015 Ambulance Inflation Factor of 1.4% effective January 1, 2015, and direct the EMS billing company to reflect the increase on all BLS, ALS-1, ALS-2, ambulance service rates and the mileage rate, and authorize the Township Administrator to execute all necessary documents. Discussion: none. **Motion carried unanimously.**

MOTION made by Mr. Wong, seconded by Mr. Welch, to dispose of two (2) forfeited vehicles by auction or through a salvage dealer. Discussion: none. **Motion carried unanimously.**

Mr. Boyko introduced the next item saying the goal was to align the uniform contract with the Roads and Services AFSCME contract as uniforms were a part of the AFSCME contract negotiations.

MOTION made by Mr. Wong, seconded by Mr. Welch, to extend Aramark uniform contract through May, 2015 with the same terms as current and authorize the Township Administrator to execute said contract. Discussion: none. **Motion carried unanimously.**

Mrs. Boyko introduced the next item saying developers are given the option of either maintaining their own undedicated streets or contract with the township to maintain them when it snows, and this item ensures that those streets receive snow removal.

MOTION made by Mr. Welch, seconded by Mr. Wong, to approve statutory Resolution No. 26-2014 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

Mrs. Boyko read Resolution No. 24-2014 amending the Township 2014 permanent appropriations and authorizing the transfer of funds from the General Fund to the Sustainable Infrastructure Fund and declaring an emergency and dispensing with the second reading and declaring an emergency, and dispensing with the second reading. She explained that 1.5 million was transferred from the general fund to the roads fund, the unused portion to be

transferred to the sustainable infrastructure fund for additional and rising costs. The Board expressed no questions or need for clarification.

Mrs. Boyko read Resolution No. 25-2014 authorizing the issuance and sale of not to exceed \$2,500,000 road improvement special assessment bond anticipation notes and declaring an emergency and dispensing with the second reading. She explained that Butler Tech would be assessed for the full amount of the next item as it related to expenses related to the construction of Capstone Boulevard and improvement of Highland Green Drive. The Board expressed no questions or need for clarification.

Citizen's Comments

Chris Wunnenberg, 8132 Dimick Road, noted West Chester has local zoning, reading the purpose for zoning from the West Chester Zoning Resolution. He gave a brief history of the Resolution, adding that the Zoning Review Committee would be presenting their recommendations to the Board at its next meeting, and explaining the due process it entailed. Mr. Wunnenberg referenced ORC chapter 519 and the authority bestowed upon and process required by boards of trustees in zoning matters. He then stated that this Board had determined it could change the zoning resolution from time to time by declaring a moratorium on enforcing a section with which they disagreed. He contended that violated the spirit or intent of the ORC, though possibly legal. He objected to the use of moratoriums, saying the Board had the authority, the ability, and the process to change the code. He also said it was his opinion that they have changed the code by virtue of their moratorium without going through the process. He said the code protects everybody and there's a process in place to let everyone speak to it. Zoning is important because it provides property owners protections and it grants property owners rights. He concluded by asking that the Board not dictate non-enforcement of the code.

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

MOTION made by Mr. Welch, seconded by Mr. Wong, to declare Resolution No. 24-2014 an emergency and dispense with the second reading. Discussion: none. **Motion carried unanimously.**

MOTION made by Mr. Wong, seconded by Mr. Welch, to approve Resolution No. 24-2014. Discussion: none. **Motion carried unanimously.**

MOTION made by Mr. Welch, seconded by Mr. Wong, to declare Resolution No. 25-2014 an emergency and dispense with the second reading. Discussion: none. **Motion carried unanimously.**

MOTION made by Mr. Welch, seconded by Mr. Wong, to approve Resolution No. 25-2014 as read and as already declared an emergency. Discussion: none. **Motion carried unanimously.**

Discussion Items & Elected Official Comments

With respect to energy aggregation, Mrs. Boyko said the Board directed her in January to terminate their current agreement with Mr. Mark Burns from Independent Energy Consultants, which she has done. She was subsequently authorized to seek RFPs for broker/agent services and she solicited nearly 80 vendors, all domiciled in Ohio and listed on PUCO's website. She did not solicit out of state vendors or direct utility providers. She said the Township received 7 submittals for each program, the same 7 for both natural gas and electric aggregation. One of the 7 was removed from consideration because it was not responsive to the RFP. She reviewed the three most responsive submittals, which she offered to the Board for their review; Energy Alliance, which serves as an agent for a sole energy provider, Eagle Energy, and Independent Energy Consultants, whose current contract the Board has terminated. Mr. Welch asked Mrs. Boyko how consumers are to get informed about aggregation, and she said they have websites as well as access to the township websites. In response to Mr. Wong's question, Mrs. Boyko said West Chester has not pooled with another community since 2007 or '08. She also said the current rates for electric are set with FES through December of next year, and the natural gas rates are currently set with Mark Burns, though that contract will be terminated, through March of next year. The contract for Mark Burns' services is through March of next year. Mr. Lang said our residents would have saved a considerable amount of money had we been on the step down model rather than the model we're currently using. In response to Mr. Wong's question, "If it's not broke, why do we fix it", Mr. Lang said he didn't think we received proper representation in the market, adding that the current broker only produces one or two responses to his RFQs, and he goes back to the same supplier. Secondly, the pricing strategy the current broker uses is more expensive for residents than that used in other communities.

MOTION by Mr. Welch to grant the township Administrator the authority to negotiate a contract with Energy Alliances to bring back to the Board for its approval for both gas and electric, seconded by Mr. Wong. Discussion: Mr. Wong asked Mr. Lang why he chose Energy Alliances. Mr. Lang said he spoke to everyone at the last Township Association meeting and Energy Alliances had superior strategies and forecasting methods. Mr. Wong wondered why they didn't make a presentation to the Board. Mr. Lang said they submitted a RFP and Judi performed the vetting process, as requested. **Motion carried unanimously.**

Mrs. Boyko then began discussion about the Butler County Solid Waste Management Plan amendment. She said it was originally adopted in 2005, since amended, and the Butler County Solid Waste Management Policy Committee is now proposing another amendment in which the current regeneration fee for solid waste would be reduced from \$1.00 to 82 cents per ton. She said West Chester's recycling incentive will be reduced by about 2/3rds, or from \$24,000 to about \$9,000. Mrs. Boyko said the recycling incentive had been allocated to the Connections Fund. She said the Residential Hazardous Waste Program, which the county administers, would be reduced from 6 months to 4 months. Mrs. Boyko explained that the savings realized by the waste haulers is being passed on to consumers, accounting for the reduction in cost.

Mrs. Boyko said Butler County asked West Chester and several local communities to participate in matching an FAA grant to pay for capital improvements to the Butler County Airport. A Memorandum of Understanding produced by Butler County would entail contributions for 5 years approximating \$20,000 annually. She suggested the Butler County Airport make a presentation at the October 28th meeting about their proposal and why the airport is an asset.

The Board expressed no objection to her proposal. Mr. Lang requested empirical data as to its value to West Chester relative other jurisdictions.

Mrs. Boyko said the West Chester Police Department has monitored and regulated "transient vendor licenses" since 1990, codified by the Board in 1991. She will present a revised resolution with no substantive changes that requires door-to-door vendors to register with our police department. Mr. Welch commented that the term "transient" suggested vendors from outside West Chester. Mrs. Boyko said it applies to vendors from within West Chester as well, excluding non-profits per Mr. Lang. The Board was okay with her proceeding with a new resolution.

Animal and poultry husbandry was discussed as a result of a resident expressing her dissatisfaction with a Board of Zoning Appeals denial of her case relative the current West Chester zoning provision governing West Chester animal and poultry husbandry. She said the Community Development Department has not pursued enforcement of her code violation and asked the Board for their direction in light of comments earlier that evening, adding that the department felt uncomfortable not enforcing this violation. Mr. Wong said he favored enforcement, noting 3 acres minimum was required to harbor chicken and it was inappropriate to have chickens in a densely populated housing area, adding his concern that pigs would be the next issue. Mr. Welch said the current resolution was ambiguous and needed to be clarified. He took issue with the word "husbandry", observing a number of communities that permitted chickens as long as they weren't obnoxious. He cited Wikipedia's definition of husbandry, emphasizing the "for profit" criteria. He said the code needed to define what was a nuisance and what was obnoxious. He said it comes down to "what is a free person permitted to do on their own property", suggesting the township wanted to legislate good behavior. He said Mr. Wunnenberg's comments made no mention of individual rights. He commented about his observation of the subject chickens. He said somebody should not have to move or give up their pets while they determined clarification of zoning resolutions. Additional discussion between Mr. Wong and Mr. Welch followed. Mr. Lang told Mrs. Boyko he'd like to get back with her at the next meeting with direction after doing research in light of their discussion and the comments by Mr. Wunnenberg.

Mrs. Boyko reviewed the status of the two sections of the zoning resolution that have a moratorium: the commercial vehicles and promotional costume devises moratoriums have been extended until June of next year. She said the Zoning Resolution Review Committee is scheduled to make a presentation at the Board's next meeting, October 28th. Mrs. Boyko told the Board she'll then be asking them how soon they would like to begin processing a resolution for both the committee recommendations and the trustee initiated zoning text changes.

Mr. Wong said Mr. Wunnenberg verbalized that evening what he's wanted to say the last few years. He also noted Mr. Wunneberg was chairman of the Zoning Revision Committee, and he, Mr. Wong, agreed with Mr. Wunnenberg that any moratorium should be made through a public process with input from the public. Mr. Wong added that their moratorium could be illegal according to Mr. Wunnenberg's interpretation.

Mr. Welch said he preferred that free men be able to do what they wanted to do, adding "do no harm to person or property, and do all you agreed to do", which he said was the basis for all

contract and tort law. He said there was no empirical evidence that more zoning protects property values; we don't know if property values are harmed if someone were to place a chicken coup on their property.

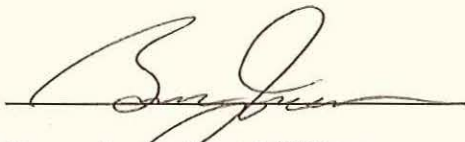
Mr. Lang commented that the proposed zoning covers only those properties not covered by a homeowners association, adding that the township does not regulate those properties that choose to regulate themselves. Regarding the moratorium, he said it was all discussed publically for several meetings before they put it in place. Mr. Lang said anyone can express their concerns to any one of the trustees and they'll consider the merits of those concerns.

Mr. Wong said he wasn't opposed to changes in the zoning text, but wanted to make sure it was done publically and legally. Mr. Lang responded that they implemented the moratorium with full transparency and opportunity for citizen input in compliance with the law. Subsequent discussion followed between Mr. Wong and Mr. Lang regarding legal opinion and legality until Mr. Welch suggested they research the matter before the next meeting, and resume the discussion at that time.

Adjournment

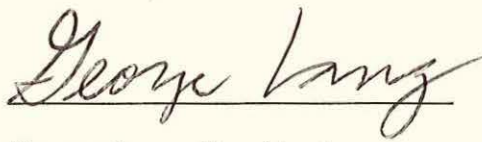
MOTION made at 7:31 p.m. by Mr. Welch, seconded by Mr. Wong, to adjourn the meeting. Discussion: none. **Motion carried unanimously.**

Respectfully Submitted,



Bruce Jones, Fiscal Officer

Approved,



George Lang, President