

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS
MINUTES OF THE PUBLIC MEETING
THURSDAY, MARCH 13, 2008**

MEMBERS PRESENT: Frank Feinberg, Chairman
Ellen S. Jarvis, Vice Chairman
Gail E. Johnson, Secretary/Treasurer
Fred L. Gold
Leo I. Quinn, III

STAFF PRESENT: Robert Tate, Township Manager
Barbara Sultzbach, Assistant Township Manager
Elliot M. Drexler, Esq., Township Solicitor
Craig Kennard, PE, Township Engineer (Gilmore)
Thomas Thern, Zoning Officer
Jim Krueger, Fire Marshal / L & I Director

CALL TO ORDER: The Public Meeting of the Warminster Township Board of Supervisors, held at the Township Building, 401 Gibson Avenue, Warminster, PA, was called to order at 7:00 P.M., by Chairman Frank Feinberg.

The **PLEDGE OF ALLEGIANCE** was led by Gail Johnson, followed by a moment of silence for our men and women in uniform around the world.

ANNOUNCEMENTS, COMMUNICATIONS & MINUTES

- Frank Feinberg asked for the motion to approve the Minutes of February 28, 2008. The motion was so moved by Fred Gold and 2nd by Ellen Jarvis. The vote carried 5-0-0.
- Ellen Jarvis mentioned that the Communications Advisory Board met this week. She offered her congratulations to Jim & Ada Messina on the celebration of their 55th wedding anniversary.
- Gail Johnson shared that he became a grandfather for the second time. The baby's name is Abigail Laura Crest.
- Gail Johnson addressed the following:
 - a) The issue of recycling toxic trash. This would include oil base paint, oven cleaner, mercury, pesticides, kerosene and other materials that have cautionary words on their label. The Middle Bucks Institute of Technology, 2740 Old York Road, Warwick, PA is our nearest drop off location. The next drop off date is July 19, 2008. For other locations and dates go to the website "BucksCounty.Org" and click on "How do I recycle in Bucks".
 - b) In a newspaper article titled "Development Down in Bucks County", it states that we have the fewest new houses built in the past forty years. He personally does not consider this a bad thing and expressed that he was really pleased.
 - c) His interest in birds led to the contacting of an individual in the state parks department. It seems they have a program that shows how to take care of our parks, get the most birds, and the most different kinds of species, etc. He found out there are 78 species of birds that are of concern in Pennsylvania. Of those 78, species we have 27 of those species here in Warminster.
- Leo Quinn mentioned that last week William Tennant High School had their 43rd Annual Black & White Night. They honored his son Kyle by dedicating the entire event to his memory. From one of Kyle's poems, they came up with a theme that was placed on shirts for each team. The monies raised from this event are being donated to Kyle's Scholarship Fund. He extended his thanks to the High School, all the kids, and the administrators who helped.

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PRESENTATIONS

Abington Hospital – Warminster Campus

Katie Farrell and Dr. Jack Kelly are here this evening to discuss Abington Hospital's Warminster Campus. Ms. Farrell tells the board that Abington Hospital is offering a full range of ambulatory health services at the Warminster Campus which includes radiology, laboratory testing, cardiology testing, wound care, physical therapy and aquatic therapy (in full size aquatic pool). There are also many physician practices available there for the care of the residents.

Warminster Campus's, a new model of an out-patient campus, affiliation with a large tertiary academic facility is working very well. The proof is the tremendous volume increase since October. Physical therapy visits increased to about three hundred a month from October through February. The blood draw center, which is a consolidation of Warminster and Southampton, is serving about two thousand patients a month. Radiology, special studies is up to 781 this month as compared to an average of 280 in the past month. Over-all Warminster Campus is doing about 3000 radiology studies per month, an increase of about 1/3 of what was seen on an out-patient basis.

The OBGYN (Obstetrics & Gynecology) center that had been located further down Street Road has moved to the Warminster Campus. This provides a more convenient, comfortable and spacious location for the patients.

Abington is moving a lot of sub-specialist to the Warminster Campus. In the orthopedic and neuroscience's center, neurosurgeons are seeing patients and are providing pain management and other neurosurgical consults. Abington is hopeful this will continue to further meet the needs of the township residents of Warminster.

DISCUSSION:

Frank Feinberg: Is this a for profit facility? A non-profit status requires you offer some free services.

Katie Farrell: Abington Memorial Hospital is non-profit. Warminster, as a campus of Abington Memorial Hospital, is non-profit. There will be some services at our campus where we will be renting space for business services that will be taxable (doctor offices). We have four (4) or five (5) projects in the works that require getting state approvals and going through L & I in Warminster. Once approved, we can look at which services are taxable and which are not taxable. We have lots of community outreach programming, seminars, support groups and our diabetic groups meets there monthly. We have a hepatitis group and some weight management programs which are free community offerings to the public. We have been advertising on the back of the P & R Newsletter.

Dr. Jack Kelly: The total value of services provided by Abington to its community and Warminster which is very much a part of our community is in the order of 22 to 25 million dollars per year, in free care. That would include things such as our obstetrical outreach program which is now based at Abington and reaches out to those women in the community who don't otherwise have access to services. A key way in which we bring these charitable purposes to the community is through access. We are adding physician groups to the Warminster Campus. All of our employed physicians groups participate in Medicare, Medicaid and other programs that are sponsored by the state which is not true of private practices in general. We think we are actually going to be able to offer more to our community because of our increase presence at the Warminster location. The Warminster Campus is no different then the Campus at Blair Mill Road or the Campus at 1200 Old York Road. We are all one entity. There is no separation. We are all under one Tax I.D. #. There is only the geographic distinction.

Frank Feinberg: The main consternation of the town is the loss of emergency services and the fact that our ambulance corps has to go to a hospital that adds twenty or thirty minutes each way to the trip. It has put quite a strain on emergency services and patients in need of emergency service.

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**PRESENTATIONS - Abington Hospital – Warminster Campus (Cont'd)
DISCUSSION (Cont'd):**

Dr. Jack Kelly: We very much understand that concern. It's difficult to sort out all the variables given the changes in the Warminster area. As you know, Warminster Hospital cared for 10% of all the inpatient admissions derived from the primary service area around the hospital. We at Abington (when we were separate) took care of 30% of those patients. The rest went to many hospitals around here. So in fact 90% of your patients requiring hospitalization were already leaving the area. Acquiring Warminster Hospital basically caused only 10% to go elsewhere. The ripple in the water may not be a substantial contributing factor as is the growth of many patients in the area who need to be transported to a hospital, such as Anne's Choice. This is beyond any of our control.

Ellen Jarvis: Stated, that she must recuse herself from conversations about Abington Hospital. All that can be said at this time is that she is a former employee of Abington Hospital who currently is in pending litigation against them. She just wanted to put that information on the record.

Frank Antonucci - 16 Thompkins – Warminster Heights - Stated that the emergency (ER) was taken out of Warminster because it was not profitable. Everything else you (Abington) are bringing in is profitable. He further says that Abington's ER is over crowded and under staffed which is putting undue pressure on the patients and the hospital staff members (doctors and nurses). To meet their responsibilities to all the surrounding townships, Abington Hospital needs to expand its existing emergency services. The residents in Warminster are older. He asks that Abington try to put the emergency ward back in Warminster even though it is not profitable.

Richard Ludwig – 62 Villa Drive

1. What are the hours at Warminster Campus?
2. There is a need for blood testing after 5:30 P.M. Is it possible that the Warminster Campus could provide blood testing after 5:30 P.M.?
3. When the police arrest someone for driving under the influence, they now have to take their prisoners to Doylestown Hospital and have to wait a long time. This is an expense to the township. Is there anything that Warminster Campus can do to alleviate that problem?

Katie Farrell:

1. We are an ambulatory health center so we are open day hours from 7:30 A.M. to 5:30 P.M.
2. What we do is through patient feedback. We look at volumes, how they're growing. If we can't get all the patients in during day hours certainly we would look to expand to evening hours. It's a community need question.
3. We are aware of the issue, specifically for the police and the D U I's. This has been discussed at the Seniors & Health Advisory Committee and we are investigating the possibility of having a phlebotomist available to do those draws. They are simply draws. The blood is returned directly to the police. I am looking at ways we may facilitate an expedited process.

Dee Young: Henry Avenue – Add to your list "emergency". Says, we need an emergency room close. Our ambulance's longer trip to the hospital isn't good for the patient in need of emergency care.

Katie Farrell: You cannot have an emergency department without in-patient beds. If it is not a hospital you cannot have an ER (emergency room).

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**PRESENTATIONS - Abington Hospital – Warminster Campus (Cont'd)
DISCUSSION (Cont'd):**

Dr. Jack Kelly: He apologizes to the community for any inconveniences they have suffered in Abington's emergency room. The emergency room is very busy. He says it is important to note, if you look at January and February and your look at the number of hours in which hospital emergency rooms at Doylestown, St. Mary's, Holy Redeemer, Abington, and Central Montgomery which were on what is known as "diversion" (won't accept anymore ambulances), there was over 700 hours of diversion in those months for all these hospitals, except Abington. Abington had zero hours for diversion. Abington never refused ambulances.....when the other hospitals close down,the ambulances do come and we can't shut our emergency room..... ..there are things that you could not get and do get at Abington Memorial Hospital in the emergency room such as acute therapy for stroke. if taken to Warminster Hospital, you would be delayed because of evaluation and would very likely miss the opportunity to reverse that stroke..... The overcoming of the emergency room absence in Warminster is a tough one.... I fully acknowledge that. When we were in the initial confidential discussions relative to Warminster, we seriously considered how we might keep an emergency room open and were unequivocally told by the state that it would not be possible. We had to maintain an open functioning hospital. The entire reason that Warminster and other small hospitals are struggling and failing is in fact, the very capital intensive nature of in-patient beds today. You need a lot of money invested in one site, to support that capital intensive venture you need a lot of patient volume. Warminster Hospital had an average daily census of fifty patients, half of which were psychiatric and drug detoxification patients. There were only 25 med-surge patients in Warminster on any given day, compared to over 500 patients at Abington on any given day. What that 500 patient presence allows us to do for those patients is so far greater. Ultimately, I really believe you will recognize the benefit of having the strength of an Abington in your community, which will be here for some time.

Ed Hoffman: The Deputy Chief of Warminster Volunteer Ambulance Corps tells the board of supervisors that he, Chief Jim Swan and the board of directors of the Ambulance Corps have been in contact with Katie Farrell regarding their problems. There have been multiple communications with Abington Hospital. The problems addressed (extended ambulance time, extended hospital waiting time etc.) have not gone unrecognized. They are working together as a group and are hopeful that as these communications continue all will be a lot better off. He reminds the community that the corps is serving Warminster to the best of their ability and providing the best care that they can.

Katie Farrell:

Says she will be happy to come to the board on an ongoing basis to keep them updated on all issues.

PLAN REVIEWS

Altair Equipment Company - Nick Rose, ProTrack Engineering

- Altair Equipment's building is on the corner of Constance & Nina Way. Altair wants their outdoor operations put into an indoor facility. Approximately two years ago they went through the process and obtained final approval from the board for that facility. At that time, there was a small area that was approved as reserved parking but was not proposed to be built. When the architecture was designed for the building, they discovered it would be beneficial to reach the end of the building and just install the parking that was already approved reserved parking. In the new plan it is propose that parking be built as opposed to being reserved. We went through the process of submitting the new proposal which was reviewed by Mary Stover, Pennoni. There were minor adjustments (some drainage added, erosion control, sidewalk location & accessible spaces).

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PLAN REVIEWS (Cont'd)

Altair Equipment Company - Nick Rose, ProTrack Engineering (Cont'd)

- I am here to ask if the board can consider this a minor enough change that we can just re-affirm the final approval, be told that we could proceed, and get the Mylar's ready. I know there are administrative things that still need to be dealt with.

Craig Kennard, PE: Mary Stover did a review on February 21, 2008.

Mary Stover: My letter outlined the process when they got their previous approvals, it listed what items had changed, the 88 spaces, the parking lot, some loading areas, as well as the grading and erosion control. We worked out all those details with the engineer.

Frank Feinberg: Your recommendation is that the changes are minor and go ahead.

Mary Stover: The building footprint didn't change; the access didn't change; the traffic count didn't change and the employees are still the same.

Leo Quinn made the motion to approve the new plan that the parking be built as opposed to the parking being reserved. This approval is subject to the Pennoni review letter dated February 21, 2008, the estimated cost improvements from December 21, 2008 and everything that was previously approved from final agreement (legal, engineering and administrative fees, outstanding fees \$2,694.56). The Mylar's will not be signed until the security agreement, improvement agreement and all the administrative items identified in the Pennoni letter are brought current.

Fred Gold 2nd the motion. The vote carried 5-0-0.

Ellen Jarvis: Constance Drive is a non-dedicated road. Is there anyway to remove the gravel that was dumped in the middle of Constance Drive and restore it to its proper roadway?

James Krueger: Mr. Hankin is in the process of talking with L & I. We will have our engineering firm review the road system that they would like to dedicate to the township. The Pennoni organization were out there (3 or 4 times) identifying sub standard's and broken curbs. The road was never topped and the base coat is deteriorated. Mr. Hankin wants to finish this project, known as the Street Road Industrial Park, for Dedication to the Township. It's been an ongoing process, as well as the storm retention pond that's overgrown. He is looking to diverse himself of that.....once it's brought up to township standards.

PUBLIC COMMENT

Walt Clemens – Saxony Manor

- Says, that Frank Feinberg said (two meetings ago) that he refused to turn over his information concerning the tax collector. To give this information was in his opinion ridiculous.
- Says, the information that he provided from the podium was based on the budget. He suggested that it could have been gathered from the township tape.
- Says, his statements regarding re-instituting the tax collector's rent was based on the approximate income derived from the use of that office.

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PUBLIC COMMENT (Cont'd)

Walt Clemens – Saxony Manor (Cont'd)

- He calculated the tax collector's approximate income from the following (listed in the budget):

1. Township Pay	2. Interim payments	3. County School Tax	4. Unknown ?
5. RE Transfers	6. Dog Licenses	7. Postage	8. Office Supplies
9. Lighting	10. FICA.	11. Legal	12. Clerical for Zoning
- He refutes Ellen Jarvis's statement that the tax collector serves as a quasi receptionist when according to the budget there is a paid receptionist just fifteen steps down the hall.
- Says Mrs. Jarvis resorted to obfuscation and sophistry by relating a touching story where the tax collector goes to the home of a taxpayer to help him avoid a lien placement due to a ninety-seven cent underpayment. Mrs. Jarvis complimented the taxpayer for her consideration and caring. Several days later in the Intelligencer newspaper was an article which said the tax collector filed forty-five unauthorized liens against property owners that already paid their taxes and she filed 111 liens in Upper Southampton against property owners who once again have already paid their taxes.
- Says when he viewed the taping of the meeting, half of his comments were deleted. He views that as an invasion of his first amendment right.
- He accused the board of cutting the tapes and deleting public comments and then he continued to voice his critical opinions of the board members.

Frank Feinberg: Mr. Clemens the tapes were not messed with, we had problems with our equipment.

Walt Clemens: Baloney, Baloney. Baloney!

Frank Feinberg: We are not having any baloney tonight. Excuse me! Excuse me! I'm answering you. You had your time. You're done now unless you get to come up later for another subject. Thank you, moving on.

SUPERVISOR'S COMMENTS

Ellen Jarvis:

The only comment that I have is an assurance to the public that the supervisors have no access whatsoever to the tape, no ability to edit the tapes, it is not in our purview, not in our control and I want to assure that we take all of our citizen's comments to heart.

While I appreciate Mr. Clemens remarks and I don't have any response for Mr. Clemens directly, I can only assure you that, I believe our tax collector does a terrific job for this township.

If Mr. Clemens takes umbrage with the fact that we lowered her rent, it wasn't us. It was the prior administration by \$3,000.00 a year.

I would like to say there are larger fish to fry and other bigger dollars to save here in Warminster and that is what the supervisors are intending to do. We have a big job ahead of us to do a better job and we will not be distracted by \$3,000.00.

Leo Quinn:

I heard (via phone / last meeting) the people that represented the Park Fair. I want to compliment them. I thought Reithoffer Shows represented themselves in an extremely professional manner. I was the lone supervisor to vote for the fair. In the event that we have more time in the future, if we give this more consideration, it may be something that would be in the best interest, all around, for the township.

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SUPERVISOR'S COMMENTS (Cont'd)

Leo Quinn: (Cont'd)

Being involved in a number of volunteer organizations and the different things we do around the town, to simply walk away from a minimum of \$50,000.00 that could assist the park department is a tough one. All the different fund raisers we conduct show it would take a long time to raise that kind of money.

A number of people have called me expressing disappointment. There were compelling arguments for not having it. It seemed to me there was a significant piling on of every single solitary negative thing that humanly possibly could occur. I think it's a shame it came down to that. Again, in the event that they would come back before us, I would like to think we would give it another crack.

TREASURER'S REPORT

1. Check List for period ending March 13, 2008.

Gail Johnson, Secretary/Treasurer, presented the Check List for the period March 13, 2008.

2008 Prepays - \$269,039.84

General Fund	\$ 369,350.04
Park & Recreation Fund	36,518.16
Storm Water Management Fund	5,875.73
Sanitation Fund	289,749.33
Golf Fund	40,815.60
Highway Traffic Cap. Improv. Fund	5,375.21
Highway Aid Fund	21,618.50
Legal & Engineering Escrows Fund	34,404.52
Payroll Date March 6, 2008	<u>251,812.11</u>
 Grand Total	 \$1,055,519.20 =====

Gail Johnson, Secretary/Treasurer, made a motion to approve the Check List for March 13, 2008. The motion was 2nd by Ellen Jarvis. The vote carried 5-0-0.

OLD BUSINESS

1. Authorization to Bid for Storm Sewer – Constitution Drive – Contract 08-03

Mary Stover: We are going to be increasing the capacity of the existing storm sewer. We are almost ready to go out for bid and we are requesting authorization.

Fred Gold moved that authorization be given to bid for storm sewer. The motion was 2nd by Ellen Jarvis. The vote carried 5-0-0.

2. McGrath recommendations and Assessments

Frank Feinberg: Mary Stover (Pennoni) was to look at the McGrath Punch List, compare that with the presentation by Villas at Five Ponds Homeowners Association, and give us guidance on how to proceed.

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OLD BUSINESS (Cont'd)

2. McGrath recommendations and Assessments (Cont'd)

Mary Stover: We met with the members of the homeowner's association; we went through their letter plus additional items. We looked at some of the items. There were some areas of misunderstanding but many we agreed with. We added four items to our punch list and we issued that to McGrath Homes. I received a note from a McGrath representative today which is in agreement with our new punch list dated March 10th with the additional four items to be addressed. It included a broken roof leader that was found, the temporary pipe in the creek from the sewer easement, some erosion occurring at some retainer walls near Club House Lane and the erosion and water flow across the path around the club house tennis court area. We had a sit down with McGrath Homes this week with both of our inspectors. We went through all the items and showed them the areas. We had some good communication and will continue to communicate with McGrath and the homeowners association as we move forward.

James Krueger: I was out with Mary and her two inspectors; we walked the site quite extensively. The homeowners brought up other items that needed to be addressed. There is also the one with the temporary culvert for the sewer installation. It is not ours; it's on the Municipal Authority's punch list, but it's on our list to make sure it's done. I think it was an excellent meeting; I think there's understanding of the water that is in the present retention basin, that once the temporary structure is removed it shall have a good flow. The bottom of it has to be dredged for the silt that collected there and replanted with seed. All the concerns were addressed at that site meeting. I am glad that Mary followed up with McGrath Homes and they are moving forward.

3. Escrow release for McGrath Homes – Villas at Five Ponds - \$139,074.87

Tom Hecker – Attorney for McGrath Homes - What is before the board tonight and has been at prior meetings is the request by my clients to release the \$139,074.87 from the escrow that was posted originally in connection with this project. This board will recall, after looking at the documentation, that a condition of approval of this plan was the relocation of the driveway to Five Ponds Golf Course. A substantial escrow was put into place at that time in connection with the escrow for the installation of the public improvements. What this board may not be aware is that the escrow that was put aside for this work within the PennDot right away was subsequently required to be escrowed with PennDot. Before we could begin any work in that right away and receive the PennDot permit, it was necessary for McGrath Homes to post an escrow with PennDot. Basically, we have an escrow in place with the township and an escrow in place with PennDot that covers the same work. Early on, the concept was that we would have the township release the escrow.....and keep the escrow in place with PennDot.....until that work had been completed. In essence we really have two escrows, one with the township and one with PennDot. This is a PennDot road and there is no reason to cover two separate escrows for the exact same thing and also the development agreement doesn't require it. We are asking the township to release the \$139,074.87 that has been reviewed and recommended on the certification of completion by the township engineer. This is in accordance with the contract we signed with the township, the development agreement and the security agreement....

Ellen Jarvis made the motion for the escrow release to McGrath Homes in the amount of \$139,074.87. The motion was 2nd by Fred Gold. The vote carried 5-0-0.

4. Appointment of New Committees

There are two new committees (Finance & Budget Advisory Board & Economic Development Committee) that were proposed but not addressed because the motion was tabled. We need to take them from the table for discussion. Frank Feinberg asks for a motion, to take from the table for discussion the Finance & Budget Advisory Board. Gail Johnson so moved the motion. The motion was 2nd by Ellen Jarvis. The vote carried 5-0-0.

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OLD BUSINESS (Cont'd)

4. Appointment of New Committees (Cont'd)

Based on input from Robert Tate, Frank Feinberg presents the Finance & Budget Advisory Board's, revised compilation of its Mission Statement, Goals, Objectives & Authorities, Responsibilities & Limitations, Membership Meetings, and the Preferred Background & Experience of its Members.

The discussion between the board members resulted in the following changes:

- In Goals and Objectives – Change the word “maintaining” to “monitoring”. The sentence will read, “It is the Goal of this Board to assist the Warminster Township Board of Supervisors in monitoring control of the finances and the business operations of Warminster Township”.
- In Authorities, Responsibilities and Limitations – Remove and delete the first paragraph. The first paragraph will now be the second which reads, “This Board will gather the information.....etc”.
- In Authorities, Responsibilities and Limitations – Change the word “monthly” to “periodic (quarterly)”. The sentence will read, “This Board will make periodic (quarterly) written and oral (if desired) presentations to the Warminster Township Board of Supervisors on its findings and recommendations”.

The above changes will be made, by Frank Feinberg, to the Finance & Budget Advisory Board Resolution. This will be an action item for voting at the next meeting.

The Economic Development Committee will be discussed at next meeting

Ellen Jarvis: A recent correspondence from the solicitor pointed out that last year two committees were informally formed, each having had at least one meeting. One was looking at the updating of the comprehensive plan and the other was rewriting the zoning ordinances done in tandem with the Bucks County Planning Commission. The zoning rewrite committee only met once and did not have subsequent meetings because they were waiting for input from the Bucks County Planning Commission. Apparently, under Mr. Luce there was a comprehensive plan updating meeting. If there is need for such committees, perhaps we should look at a resolution to formally structure a zoning rewrite committee in tandem with the update of the comprehensive plan. This is something the board should be looking to establish, especially, since from last year the Bucks County Planning Commission has been working on this on our half.

Elliot Drexler, Esq.: In the materials I received, I noticed there were two committees formed. The Bucks County Planning Commission, given authorization from last year's board, is now in the process of rewriting the zoning ordinances. If last years board felt these committees were important, maybe we need to re-activate them, add people to them, or do something so we have committees to review any incoming recommendations. The Warminster Planning Commission was involved with these committees and gave input and suggestions to the Bucks County Planning Commission. When the rewriting of the zoning ordinances is done by the Bucks County Planning Commission, they will be reviewed by the township, the planning commission, maybe a committee. It will be decided what is to be included, excluded, and then there will be public hearings. This is a long time need and should be a goal as soon as practical.

Tom Thern: I was on the planning commission in 1984 when we started looking at changing a lot of the zoning ordinances and we are still working on the same ones. There are a lot of zoning ordinances that should be brought up to current standards.

Elliot Drexler, Esq.: My conversation with Lynn Bush, Director of the Bucks County Planning Commission, did not result in a time line for completion of the zoning ordinances changes. I'm hoping if we keep pushing we'll get it this year.

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OLD BUSINESS (Cont'd)

4. Appointment of New Committees (Cont'd)

Craig Kennard, PE: I recommend that you keep the pressure on the planning commission to produce the first draft and then have the committee go through it then present that to the local planning commission and then to the board. That committee will do a total rewrite. You are going to have a lot of issues that maybe the Bucks County Planning Commission probably isn't aware of locally, but the committee will be able to flush out issues even before it gets to the local planning commission and then to the board. In the past that has been a good process to implement.

Frank Feinberg: We will have to look into re-forming that committee with the appropriate people.

<p>NOTE: Read public comments by Richard Luce regarding comprehensive planning and zoning rewrite committees. See page 17 of 19 (Minutes dated March 13, 2008)</p>

5. Appeal of Magliari Land Use Zoning Decision

NOTATION ONLY: The Zoning Ordinance requires a lot width of 80 feet at the street line and 100 feet at the building setback line.

- The Magliari Property presently has 4.226 acres, with a single family dwelling (R-1).
- Wants a subdivision (to build another single family dwelling) of the 4.226 acres. One lot to be 2.2891 acres and the second lot to be 1.912 acres.
- Property is nonconforming in that while it has frontage on two streets, the frontage on Jacksonville Road is 27.12 feet and the frontage on Benn Lane is 50 Feet. It is referred to as a flag lot.

DISCUSSION:

Elliot Drexler, Esq.: My recommendation is basically no action just proceed to let the court tell us whether this house can be built or not. We will continue to do what we are doing in defending the zoning board.

Fred Gold: I agree. If they divide this, they will have one 27' frontage width and one 50' frontage width and our Ordinance require 80' frontage width. I say we should support the zoning board in their decision.

Leo Quinn: This very large lot (over 4 acres) is landlocked because it is very deep. If they can get access off of Benn Lane, they will only have 50 foot frontage but this is a huge piece of land. In the spirit of allowing people to do something productive with their land, I think we should allow them to do it.

Frank Feinberg: Benn Lane is essentially a cul-de-sac. The property is a very heavily wooded lot. A lot of trees would have to come down for them to proceed. The neighbors are dead set against losing cul-de-sac environment, with all those trees behind them.

Leo Quinn: Benn Lane will still be a cul-de-sac. The neighbors don't own that land. That's not their wooded lot.

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OLD BUSINESS (Cont'd)

5. Appeal of Magliari Land Use Zoning Decision

DISCUSSION (Cont'd)

Craig Kennard, PE: You may be able to par settlement. You may be able to preserve more going through a settlement, work out some conditions that address the residents concern or take the risk of going to court and losingand clear unfortunately up to the maximum permitted. This is a small project on a minor subdivision. You may want to consider a settlement or a least discuss it with them through Elliot to see what they are willing to preserve. Maybe they would preserve above and beyond what's required by the zoning to still build the one house. But they can't clear to the maximum permitted under the current zoning. There are ways to address those issues through a settlement. Obviously, that would have to go through our solicitor and through their attorney to even see if they are willing to come to an agreement. If not, you move forward with the appeal through the court system.

Ellen Jarvis: One thing that I noted of the ten who requested party status, almost everyone complained about additional traffic. We are talking one house, how much additional traffic does one house cause? In the scheme of things, it could just be that the neighbors are losing their land; land that they don't own. The only other concerns that they raised were flood plain and water run off issues and drainage swales. If we work with our engineer, their engineers and the solicitors, there could be a solution.

Craig Kennard, PE: That's a large lot. You can do just about any storm water option as far as controlling the run off. I don't think traffic is a big issue with a single family home. I feel confident something could be worked out with the engineer to address the storm water on their lot. Also, if you do some investigative work out in the field and work together, you can actually save the larger trees and design the driveway and put the house in a location where it is only secondary growth or smaller undergrowth material.

Frank Feinberg asks for a motion to authorize our solicitor (Elliot Drexler, Esq.) to try one more time to negotiate a reasonable settlement (regarding Magliari appeal) and if that fails let it be worked out in court.

Elliot Drexler, Esq.: That seems to be open ended enough. I will talk with Craig and come up with some ideas; then, we will communicate with the other attorney (Kurt J. Shaffer, Esq.). Just so you know, there is scheduled a Rule 27 Conference. It's a local Bucks County rule that the judge is going to have next week. We will go to that. We can advise the court that there may be some discussions and to hold off on any requirement or further oral arguments or briefing. If we went through the court process, the brief that Mr. Shaffer, Esq. filed would require that I file a brief after the oral argument. I will see if we can delay that somewhat. Craig & I will talk and then meet with attorney Shaffer and their engineer (Mr. Chadrow).

Fred Gold so moved the motion. The motion was 2nd by Ellen Jarvis. The vote carried 5-0-0.

6. Approval of Barrett Asphalt for 2008 asphalt road materials - Frank Feinberg asks for a motion to approve the purchase of asphalt road materials from Barrett Asphalt, Inc.

Leo Quinn so moved the motion. The motion was 2nd by Fred Gold. The Vote carried 5-0-0.

7. Approval of Eureka Stone for 2008 stone & cold patch materials – Frank Feinberg asks for a motion to approve the purchase of stone & cold patch materials from Eureka Stone Quarry, Inc.

Fred Gold so moved the motion. The motion was 2nd by Ellen Jarvis. The vote carried 5-0-0.

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**OLD BUSINESS (Cont'd)
DISCUSSION (Cont'd)**

8. Signature (in two spots) was obtained from the board of supervisors (5 present) to finalize the transfer of escrow funds for Street Road Industrial Park from Pennsylvania Bank to Madison Bank which was approved at 02/28/08 meeting (4-0-1 Quinn not present).

Signature on two documents was obtained from the board of supervisors (5 present) to finalize the approval of vendors (Garden State Hwy. Prod .Inc. & Custom Products, Inc.) & for specific sign materials which was approved at 02/28/08 meeting for Public Works (4-0-1Quinn not present).

9. Towing Ordinance – prepared by Ellen Jarvis

- To create the Towing Ordinance, I plagiarized liberally, with permission, from Towing Ordinances of: Warwick, Warrington, and Falls & Middletown Townships amongst others.
- The first draft sent to our Chief of Police, Mike Murphy, resulted in some changes particularly:
 1. Making this a two year license period rather than a one year.
 2. Require a maximum of three duty tow operators, in a license period, at any given time.
- Our solicitor has some concerns, one of which is, “If we have more than three duty tow operator applicants that qualify, how do we choose”? Needs to be addressed.
- Suggests the board members take the next couple weeks to make revisions.
- Possibly the board would want to consider additional input from duty tow operators.
- At the next meeting this should be presented to the board as an action item to authorize advertising.
- The ordinance does show an increase in the license fee. For a two year period, it will be \$300.00, previously for one year it was \$100.00.

James Krueger: It has been the practice of the township to do all fees by resolution. They did not include them into the ordinance. The ordinance did reference that a new fee schedule could be established from time to time by the board of supervisors.

Frank Feinberg: This Towing Ordinance will be revised and brought up at the next meeting for authorization to advertise.

10. Authorization to advertise Zoning Ordinance Amendment – garden center use to shopping center district.

DISCUSSION:

Ellen Jarvis: The Bucks County Planning Commission previously reviewed this zoning ordinance and had considerable suggestions. These suggestions were not incorporated in the final ordinance. Are we just ignoring the suggestions?

Tom Thern: The Warminster Planning Commission approved the zoning ordinance as written. They did not want the changes that were recommended by the Bucks County Planning Commission.

Gail Johnson: Where the changes by the Bucks County Planning Commission already incorporated?

Tom Thern: No, they are just a recommendation and the Warminster Planning Commission did take them into consideration and did not want any of the recommendations put in the ordinance.

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OLD BUSINESS (Cont'd)

**10. Authorization to advertise Zoning Ordinance Amendment – Garden center use to SC district
DISCUSSION: (Cont'd)**

Elliot Drexler, Esq.: For Waterloo Gardens to put in a garden center, the zoning ordinance needed to be amended. If passed, it would apply to all the shopping center districts. The Bucks County Planning Commission is looking at it more globally and saying there are other considerations. To consider these considerations, someone needs to be authorized to prepare a new ordinance. The Warminster Planning Commission felt the present ordinance is sufficient for us.

Ellen Jarvis: The most significant concern is chemical storage. The ordinance should include a provision that requires fertilizers, pesticides and the like be stored inside and that the employees should be trained about proper handling procedures. Any type of spillage of fertilizer or pesticides into the water would have a deleterious affect on the surrounding community.

Gail Johnson made the motion that the ordinance should include a provision about inside chemical storage. The motion was 2nd by Frank Feinberg. The motion was defeated 2-3-0 (Johnson, Gold, Quinn)

James Krueger: There are agencies like the EPA that regulates restrictions for pesticides and concentrates. These items are maintained in an enclosed environment. Bags of fertilizer are not regulated items so they are permitted to be placed in the outdoor sales area. We can investigate the present codes that we have and see if there are restrictions for pesticide and concentrated forms. Pool chemicals and so forth are all regulated and are not displayed where moisture can get in.

Fred Gold: Speed was of the essence for Waterloo Gardens to get started. I do not think this should be delayed. They certainly will adhere to any codes or laws that determine how the chemicals should be stored. We should proceed to have this advertised.

Ellen Jarvis: I do agree that Waterloo Gardens would abide by the spirit of the ordinance as provided. I do not want to delay their season.

Fred Gold made the motion to authorize the advertisement of the Zoning Ordinance Amendment. The motion was 2nd by Leo Quinn. The vote carried 5-0-0.

Elliot Drexler, Esq.: We have to advertise on two separate weeks. We can do the 2nd advertisement April 10th.

11. Approval to accept Christ's Home tree replacement payments

Fred Gold made the motion for discussion on the approval to accept Christ's Home tree replacement payments. The motion was 2nd by Leo Quinn.

DISCUSSION:

Fred Gold: Are these proposed payments adhering to the original agreement?

Frank Feinberg: We talked about that in a meeting with Mr. Krueger & Mr. Thern. This deviates significantly from the original plan. It is our understanding that the full \$300,000.00 fees were to be paid at the signing of the Mylar's. In December, the Mylar's were signed by the previous board. To our knowledge we have not received any money. Christ's Home now wants to pay \$100,000.00 at Phase I Mylar signing, \$100,000.00 at completion of Phase I (12-15 months) and the balance due upon completion of connector road (estimated 24 months). I do not find this acceptable. My suggestion would be not to put on conditions of completion but give us actual dates (hard dates).

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OLD BUSINESS (Cont'd)

11. Approval to accept Christ's Home Tree Replacement payments

DISCUSSION: (Cont'd)

Gail Johnson: They are chopping away at the trees, are they complying with the plan?

James Krueger: Gilmore's inspectors and I were on site. There are 15 (fifteen) steps in the construction sequence and as we reviewed where the barriers were placed, they were in position to protect the wooded area that is going to remain as well as the wetlands. We were comfortable with the removal as was discussed previously and with the tree count that was conducted by Pennoni. We are in agreement that they are within their rights to be doing what they are proceeding to do up to item 15 with the exception of item 5 which is to get into the wetlands basins.

Craig Kennard, PE: I agree. There is an amendment to allow them to go for erosion control, clearing and cutting in the roads, up to step 15, which the board has already approved. They have to finalize the rest of the project, get all the paper work, development agreements, and record the plans.

Ellen Jarvis: It reads that the money for replacement trees is paid to Warminster Township. Is there a particular fund?

Robert Tate: The actual document says that Christ Home shall pay \$300,000.00 to the township, a fee in lieu of. In history, when it was a fee for the removal of trees, that money did go to the park system.

Ellen Jarvis: My suggestion would be that it would be for the greening of the township not necessarily for the parks. For example, what if the traffic calming plan proposed median strips with trees in particular streets, who would pay for those trees? Maybe it could come out of a greening fund. Spreading the trees around and making the township more beautiful might serve a greater purpose and again adhere to the spirit, the re-greening, when you're removing trees.

Frank Feinberg: The motion on the floor requires a vote for the approval to accept Christ's Home tree replacement payment. The motion was defeated 0-5-0 (Feinberg, Jarvis, Johnson, Gold, Quinn).

12. Approval of voting member for SHAC.

Ellen Jarvis: Merle Neulight has submitted an application and resume. We do have an opening for a voting member for SHAC. She has been generous in giving her time as a volunteer scribe on the Warminster Township Seniors & Health Advisory Committee and has expressed an interest in the voting position. I would like to move that she be appointed to the SHAC. Fred Gold 2nd the motion. The vote carried 5-0-0.

NEW BUSINESS

Ellen Jarvis:

I would like our township to consider implementing a Responsible Contractor Ordinance to put in parameters that there be certain responsibilities in terms of professionalism for contractors that come to Warminster to build. I would like to draft such an ordinance using similar ordinances that are in use in surrounding townships.

Frank Feinberg: The general consensus of the board is to draft a Responsible Contractor Ordinance.

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NEW BUSINESS (Cont'd)

Robert Tate:

In regard to escrow accounts, our budget for 2008 included and named two specific banks that the township would transact business with. Between the two banks, they hold over two million dollars of escrow funds (developers & projects). One bank pays us a more significant rate of interest than the other. Ginnie Gehring & I have met with both banks asking for a better rate on the escrow accounts. We would like to move approximately 1.3 million dollars from one bank to the other for a higher rate of return. We have the documents prepared and are ready for this transfer.

First Service Bank has 1.3 million dollars and Bucks County Bank has close to 700,000.00. Bucks County Bank is paying a rate of 4.25% and they promise to hold this rate for the entire year (2008). This applies to all monies invested in the bank with no exception. First Service Bank was paying .7% rate on the escrow accounts and would increase the rate to approximately 3% but it would fluctuate with prime.

Fred Gold made the motion to move the escrow monies (1.3 million) from First Service Bank to Bucks County Bank. The motion was 2nd by Ellen Jarvis. The vote carried 5-0-0.

Frank Feinberg:

Regarding the Volpe Tile negotiations issue, I am concerned that the township may be liable, if an accident happens. That fence was put up without permits, without permission..... It is definitely on the site line. We have put aside our own ordinance to allow a negotiation for a fence that doesn't have permits to stand. I have a fundamental problem with that.

Tom Thern: I was part of the negotiation effort with Mr. Titus (Harris & Harris) and Brian Keaveney (Pennoni). We had no problem on what was recommended. They have four way stop signs there now which are illegal.

Leo Quinn: What was the compromise?

Frank Feinberg: The proposed settlement is to remove 20 feet of the wall from the southwest corner of the property along Harvey Road toward the northwest corner of the property so that the clear sight triangle at the corner of Harvey Road and Prospect Road is not blocked. By removing 20 feet of the wall, Mr. Volpe will not be removing the entire wall from the clear sight triangle however he will be removing the wall from the townships right of way and will be removing the majority of the wall in the clear sight triangle, essentially leaving the corner unobstructed.

Elliot Drexler, Esq.: If you are going to approve this, you are approving the stipulation that was previously prepared by the prior solicitor. I am not sure the liability to the township is that substantial. The way I understand it, this will be more of an improvement than was there before the wall.

Craig Kennard, PE: It was mentioned that Volpe Tile does not meet the ordinance for the clear sight triangle. Clear sight triangle and sight visibility are two different things. PennDot standards go by sight visibility. Clear sight triangle's number is about 25 feet. The number is different in any municipality I represent, depending on the classification of the road. The argument is over five feet. I am not sure that 25' is based on any factual information for that intersection. If a study was done to justify that 25', I am not aware of it.

Frank Feinberg: Initially, I did take exception to the negotiated compromise. The additional information discussed tonight makes me think I might be wrong. The focus was on the clear sight triangle and the five foot wall which might not be meaningful here.

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**NEW BUSINESS (Cont'd)
Volpe Tile (Cont'd)**

Richard Luce – Henry Avenue - The question I have is the definition of a wall which is opaque and a cyclone fence which is not opaque. If the masonry wall were to be cut back, is it going to be replaced with a fence in the same configuration as was the wall? If it has the same configuration, what would prevent the owner of the property from erecting, on racks if you will, slabs of granite which would block the view? Even though it is not an opaque wall and is now a fence, what would prevent that being in the clear sight triangle?

Ellen Jarvis: The agreement is for removal of 20' from the existing security wall. Photographs provided by the Carters show a line basically halfway in the wall, essentially a block long in which will be erected a diagonal cyclone fence of equal height in an approximate 45 degree angle. Stored there is granite & marble which you can't see through. As part of the agreement, the Volpe's agree not to park their trucks within so many feet of the intersection. I understand this is a motor vehicle law that just requires vigilance in terms of enforcing. Our people put up no parking signs facing the wrong direction and temporary stop signs. This is sort of "vigilantism zoning". This just can't be allowed. From my prospective, I think we have to go back to the original issue that this wall was constructed...without any permits and without any real inspections. They had post construction inspections, and they put up some bracing etc. to make sure the wall wouldn't tumble. If we remove the temporary stop signs, it will then create another problem. What concerned the Carter's was when people, especially children on bicycles or skateboards, went zipping through and a car was cutting through, it could put, particularly the children at risk. Is this a liability we should take on? Now if the court says you leave it up or you can take half of it down then the liability shifts to them. I say let the court make the decision. I would say, rather than us being burdened with this decision, why don't we let them follow through in court? Why are we trying to force this and enable them to "ride rough shod over us" over our zoning ordinances.

Elliot Drexler, Esq.: The genesis of this is that the judge in the rule 27 conference had suggested that the parties try to work something out. That is only a suggestion. You don't have to do that. This is how Volpe settlement started.

Leo Quinn made the motion that we accept the proposed Stipulation and Settlement Agreement forwarded by Michael J. Titus (Harris & Harris) with his letter dated 01-09-08. The motion was 2nd by Fred Gold. The vote carried 4-1-0 (Jarvis)

PUBLIC COMMENT

Dee Young – Henry Avenue – Earlier there was a discussion on a topic that was not on the agenda so I waited till now. Persons received letters for taxes that they didn't pay, but they did pay. Let me ask you, were they the taxes that were sent directly to the school?

Answer: Yes

Dee Young – So you see it caused confusion. Do it the right way so it won't turn out the way it did.

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PUBLIC COMMENT (Cont'd)

Richard Luce – Henry Avenue

Earlier, I heard the discussion about comprehensive planning and zoning rewrite committees. There was some information given out tonight that was incorrect.

- When I was still on the Planning Commission, I took on the task of forming a committee to come up with a comprehensive plan. The comprehensive plan had not been updated in forty years.
- About 2003 we adopted the new comprehensive plan which was essentially a rewrite of the whole plan. Under the laws of the Commonwealth, once you do that, your zoning regulations need to be in compliance with your comprehensive plan.
- The comprehensive plan committee did not meet last year.
- The comprehensive plan has to be updated every ten years. We still have a few years before that has to happen again.
- One of the things we had to do was to look at our zoning regulations for re-codification and there were a bunch of quality of life issues we were trying to take care of and we formed a committee with members from the planning commission and some members of the zoning hearing board, myself and Fred Gold were the co-chairmen, Walt Clemens was a member.
- We hired Lynn Bush, Executive Director of the Bucks County Planning Commission, and her group because the Bucks County Planning Commission was the consultant that we used in the township. We also hired them to do the rewrite. The last I understood, Lynn's group was in the process of retyping the whole zoning regulations and coming up with some suggested changes. She never came back to us before my term was over with the revised document.
- There were some other members of the community that wanted to be on the committee. There were about a half dozen members of the township that were on this committee.
- There are two other sub parts to this. There are two villages in the township, the Village of Johnsville and the Village of Hartsville. One of the things that the comprehensive plan recommended was the coming up with a zoning overlay district which would protect the character of the villages. We didn't get into that but that also has to happen. That has to happen in conjunction with the residents that live there so we don't burden them with things that they don't want to do. We need to protect the character of those two villages for the future.

Leo Quinn: Do we need to form another committee?

Richard Luce: Legally, I don't know how it goes from board to board whether or not the committee is still in existence. The work has to be done. We are being mandated by the Commonwealth.

SUPERVISOR'S COMMENTS

Gail Johnson: There has been some discussion about the open space funds that the county has recently allocated in the amount of \$750,000.00. We are running out of open space in the township and there is talk about using the money to improve the existing parks. I would like to say we still do have a few pieces of property that we could look at. In addition, I think we should look at development rights. Maybe we can purchase some development rights off of some of the existing properties. I would rather use that money to preserve more space as oppose to developing the space we have.

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SUPERVISOR'S COMMENTS (Cont'd)

Leo Quinn: On reviewing last meeting taping, I noticed that two separate times it was brought up about us making sure that we satisfy the legality of the Warminster Heights contract. I want to make sure that we do this properly. I know, in the spirit of working with the Heights, there was a meeting held with me, Bob Tate and Buddie Mullen, in order to get things rolling. We were not in a position to finalize any legal documents. I want to make sure that we don't lose sight of whatever has to happen from a paper work standpoint gets done; and, at the same time, move forward with the monies we agreed to spend in 2008 and 2009. Hopefully, we would be satisfied and they dedicate and we go on to the normal rotation of the rest of the streets.

Elliot Drexler, Esq.: I talked with Mr. Tate about that and we are on a similar wave length that you just described. It still needs work in terms of what has to happen making sure that the township and Warminster Heights are in agreement, then we move forward from there.

Fred Gold: I would like to wish everyone a Happy Easter and congratulate Gail on again becoming a grandfather.

Frank Feinberg: This board and myself in particular have tried to go out of its way to show each and every person all due respect while allowing more than five minutes to speak while some townships are 3 minutes for public comment. I will not allow anyone, board member or any citizen to personally and publicly attack anyone else in this meeting. This is not what this is for. I will not allow any impugning of people's reputation. I believe, tonight, a person stepped across the line. I will say that I took personal offense. I don't get angry often and I allowed the person to speak, that's fine. That will not happen again! Anybody can address any issue they want to at the microphone and we will be happy to listen even if we don't like what they say and if they want to criticize us as board members, if they want to criticize what we do, what we know, how we act in representation of the township and board that is fine. Beyond that, it is not fine and it will not be tolerated.

REMINDER:

Elliot Drexler, Esq.: The continuation of the Wawa Curative Amendment Hearing is scheduled for next Thursday, March 20th at the township building 7:00 P.M.

AGENDA FOR MARCH 27, 2008

- Conditional Use Hearing for Middle Earth School which will start at 6:30 P.M. Packets are available for the supervisors. The regular meeting will start at 7:00 P.M.
- Presentation on HLRA – Donnamarie Davis
- Approval of the Finance & Budget Advisory Board
- Presentation by Elliot Drexler, Esq. concerning the Magliari settlement
- Authorization to advertise the Towing Ordinance.
- Reviewing the Responsible Contractor Ordinance Proposal. Discussion item

MEETING ADJOURNED AT 10:00 P.M.

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INDIVIDUAL ACTION ITEMS:

- 1. Frank Feinberg**
 - **Make agreed upon changes, to the Finance & Budget Advisory Board Resolution.**
 - **Copies of the Economic Development Committee Resolution to be discussed at next meeting.**

- 2. James Krueger**
 - **Check on present codes to see if restrictions apply to outdoor chemical storage of fertilizer, pesticides etc.**

- 3. Ellen Jarvis**
 - **Draft of the Responsible Contractor Ordinance.**

- 4. Elliot Drexler, Esq.**
 - **Waterloo Garden - Second advertisement for Zoning Ordinance Amendment April 10th.**