

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
MINUTES OF THE PUBLIC MEETING  
THURSDAY, AUGUST 13, 2009**

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**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
MINUTES OF THE PUBLIC MEETING  
THURSDAY, AUGUST 13, 2009**

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

**STAFF PRESENT:** Robert Tate, Township Manager/Treasurer  
Michael J. Savona, Esq., Township Solicitor  
Kurt M. Schroeder, PE (Gilmore & Associates)  
Thomas Thern, Zoning Officer  
James 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 7:04 PM, by Chairman Frank Feinberg.

The PLEDGE OF ALLEGIANCE was led by Leo Quinn, followed by a moment of silence for our men and women in uniform around the world. Leo Quinn asks that we keep in our thoughts and prayers the family of John Lennon who passed away suddenly Tuesday, August 11, 2009.

**John F. Lennon**

**Frank Feinberg:**

- He was a contributor and supporter of the History of Warminster, Bucks County and Pennsylvania. His efforts were deeply appreciated and he will be sorely missed.

**Leo Quinn:**

- He was a member of the Craven Hall Historical Society, re-enactor (Battle of Crooked Billet) and a member of the Tri-Centennial Committee. He was a great guy and his death is a terrible loss to us.

**Ellen Jarvis:**

- He was on the Board of Directors of the Millbrook Society and a great contributor to the Tri-Centennial Committee. She extends her sympathy to his family.

**ANNOUNCEMENTS, CORRESPONDENCE, AWARDS**

**Ellen Jarvis:**

1. The Hartsville Fire Co. No. 1 – 1195 York Road – will hold a 9-11 Flag Memorial and Memorial Service on September 11, 2009. The public is invited. Refreshments will be available all day. The station will be open from sun-up to sun-down for visitors who may wish to stop, reflect and remember. Although firefighters are foremost in their thoughts and prayers, they wish to remember everyone who lost their lives in New York City, Washington, D.C and Shanksville, PA on September 11, 2001.

- Flag Memorial – display of 343 American flags on front lawn of station. Each flag represents a New York City firefighter who died on 9-11-2001. Two additional flags will represent Volunteer Firefighter John Kulick and Tristan Smith who were killed in action in Iraq.
- Memorial Service – will be at 7:00 PM. It will include music by the Billy Monahan Band, a reading of the names of fallen firefighters and a retrieval of the flags. Attendees may participate in reading the names and retrieving the flags.

2. The Warminster Fire Department - has sent requests to the residents of Warminster to contribute to their 2009 Fund Drive. Mrs. Jarvis acknowledged her personal support. From the brochure she received, she mentions the following:

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**ANNOUNCEMENTS, CORRESPONDENCE, AWARDS (Cont'd)**

**Ellen Jarvis: (Cont'd)**

- Warminster Fire Department needs our help so its volunteer firefighters can continue their proud tradition of service. This financial support helps offset the expense of maintaining its buildings, vehicles and emergency equipment.
- Warminster Fire Department's 2008 Fund Drive donations helped to replace a twenty year old ladder truck and purchase additional life saving equipment. In 2009 it hopes to update the vehicle communication systems and install back-up power generators in two of the fire stations. Our tax deductible donation helps assure the highest level of service to our community.
- Warminster Fire Department has been serving Warminster and its surrounding communities since 1927 (over 80 years). In 2008 volunteers responded to nearly 700 fire safety emergencies. Those incidences included building fires, vehicle rescues and weather related emergencies that required over 5,000 hours of service. Although many of those emergencies occurred in the middle of the night and during severe weather, our members responded without hesitation to provide assistance whenever or wherever needed. Between alarms, the volunteers participated in more than 9,000 hours of training, fire prevention and community education programs to protect the homes, businesses and residents of Warminster.
- Warminster Fire Department advises our residents, when reporting a fire or an emergency, to do the following:
  - Dial 911 - Give the address of the emergency as accurately as possible - Provide your name, street location and nearest cross street or landmark - Do not hang up until the dispatcher confirms your message.

**Gail Johnson:**

1. On Saturday, August 15<sup>th</sup> from 9:00 AM to 3:00 PM there will be Household Hazardous Waste Recycling at the Bucks County Technical High School – 640 Wistar Road – Bristol Township. This includes up to three computer systems.
2. There will another Household Hazardous Waste Recycling on Saturday, September 26<sup>th</sup> from 9:00 AM to 3:00 PM at the Quakertown Community Pool – 601 W. Mill Street – Quakertown.

**Fred Gold:**

1. The American Red Cross will be conducting a blood drive on Monday, August 27<sup>th</sup> from 2:00 PM to 8:00 PM at the Ben Wilson Senior Center – 580 Delmont Avenue – Warminster. Blood donors can just walk in. If possible, the center asks that you call 215-672-8380 so they know, in advance, the number of persons coming.

**Leo Quinn:**

1. Saturday, August 29<sup>th</sup> from 11:00 AM to 7:00 PM there will be a day-long SK8 JAM at the Warminster Skate Spot (Munro Park -1270 Newtown Road – off Bristol). There will be a BMX Contest, live Bands (PKSD-Roses Cross-the Mahlors-for Victor) and Pro Demos by Keystone Skateboards. The primary sponsor is “Boards” out of Southampton. The event is free. Donations are welcomed.
2. At the last meeting, it was mentioned that the Warminster Rotary is having a bowling fund raiser event for the benefit of Jim Messina on Saturday, September 26<sup>th</sup> from 7:30 PM to 9:30 PM (at Thunderbird Lanes) to buy and install a ramp on Jim's property. The contact for more information is Joe Witiw at 215-441-0100. Happily, Jim recovered so quickly the Rotary had to build him a ramp. He will be coming home this Saturday, August 15<sup>th</sup>. A ramp was built this week in about three days. There were a number of unsung hero's that pitched in to make this happen. Rotary members and residents were there. The Rotary scheduled event will now be paying for the ramp materials. Contact Claudia Eisenmann, President of the Warminster Rotary. She will be happy to sell you a lane for \$125.00 or sponsor a lane for \$125.00. Each lane holds up to six bowlers.
3. He shared with the Board and our Warminster community that he proposed to Claudia (Eisenmann) three Sundays ago at Niagara Falls. She said yes.

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**ANNOUNCEMENTS, CORRESPONDENCE, AWARDS (Cont'd)**

**Leo Quinn: (Cont'd)**

**4. The cell tower over on Norristown Road is being appealed by AT&T. His thoughts are to move it to the Golf Course or Grace Lutheran Church. He asks that discussion on this matter be added to the Agenda this evening under Other Business.**

**Bobbie Loftus – Tax Collector**

**1. Reminds the residents that School Taxes at the discount rate are due August 31<sup>st</sup>. There will be extended hours during the discount period. Office hours will be as follows:**

**Friday, August 28<sup>th</sup> from 9:00 AM to 7:30 PM, Saturday, August 29<sup>th</sup> from 9:00 AM to Noon  
and Monday, August 31<sup>st</sup> from 9:00 AM to 7:30 PM**

**PRESENTATIONS**

**1. Economic Development Committee – Tony Simek - member**

**As a member of the Economic Development Committee, Tony Simek is here this evening to present an overview of what actions the committee has taken in their effort to ultimately put together a brochure with resource information for businesses operating in Warminster Township.**

- **He acknowledged Len Grumm (present this evening) and the other two members Michael Hartline (member of Warminster Chamber of Commerce) and Joe Warner (Warminster business owner). He mentions that Frank Feinberg is the Township Supervisor liaison to the committee.**
- **He tells the Board that in their brainstorming efforts to put together a resource brochure for businesses, the committee recognized that they were not equipped to speak to the advantages or challenges of being a Township business owner and soon came up with the idea that they would conduct a survey. This survey would allow the business community to express what works for them and what doesn't work for them. In addition, it affords them an opportunity to suggest what kind of things the committee could do to improve their situation in Warminster Township.**
- **He says that the Economic Development Committee has decided against doing mailings. They have based that decision on a newspaper article which stated that the Bucks County Development Corporation recently mailed 40,000 surveys throughout Bucks County and, as of the date of that published article, received back only ninety surveys. The committee has decided to direct their efforts as follows:**
  - **Face-to-face presentations at the Warminster Rotary Club and at the Warminster Chamber of Commerce. Time frame is September-October**
  - **Walk-a-rounds. A walk-a-round, to the committee, is to take a copy of the survey directly to businesses during normal business hours and ask the owners to provide feedback. This would occur only if the information wasn't obtained through the other two means. Time frame is after the face-to-face presentations.**
  - **Present the gathered findings to the Warminster Board of Supervisor, the Warminster Rotary and the Warminster Chamber of Commerce.**
- **He points out that the Bucks County Development Corporation has a website with links to various communities throughout Bucks County. He suggests that the committee working with someone from the township could do something similar and model a Warminster Economic Development Committee website that serves as a resource for businesses in the community. He asks for permission to move forward in setting up a website.**

**Frank Feinberg: The general consensus of the Board is to go ahead and do it.**

**Ellen Jarvis:**

- **Acknowledges the committee's efforts and suggests the survey include number of employees. She mentions that the Communications Advisory Committee has been working on posting job availabilities in Warminster to the Townships website and thinks that might be an avenue where these businesses can find Warminster residents.**

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**CONSENT AGENDA ITEMS -- (One motion to approve all items)**

- A. Approval of the Minutes of July 23, 2009**
- B. Authorization to Advertise Bid #2009-05 – Uniform Bid**
- C. Approval of Change Order #1 for Warminster Community Park Dog Pavilion and Maintenance Building in the amount of \$2,106.00**
- D. Authorization to Advertise Bid #2009-06 – 2009 Road Program Ivers and Nemoral**

<p>Leo Quinn made the motion to approve Consent Agenda Items A, B, C and D as read by Frank Feinberg. The motion was 2<sup>nd</sup> by Fred Gold. The vote carried 5-0-0.</p>
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**OLD BUSINESS**

**Frank Feinberg:** Item G has been moved forward (Item G will be first followed by A through F).

<p><b>G. Consideration of Acceptance of Veteran's Way and Veteran's Circle</b></p>
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**John VanLuvanee, Esq.:**

- At the Board of Supervisors meeting December 11, 2008, he represented his client Erickson in the Applicants request for acceptance of Johnsville Blvd, Veterans Way and Veterans Circle. The Board accepted dedication of Johnsville Blvd. but tabled the request for acceptance of Veterans Way and Veterans Circle.
- At the December 11, 2008 meeting, there was discussion of the fact that it was the Township that asked Erickson to pave the roads and to put the final coat on earlier than intended while knowing there was still work being done out in that section of the project by Franklin. After the top coat had been placed, there were some utility trenches cut and that led to the patching. It had nothing to do with Erickson's activities at all.
- At the December 11, 2008, meeting there was discussion that raised the question whether Erickson would consider making a contribution to the Township as an inducement to accept dedication. Erickson feeling they satisfied their obligation gave no authorization to make any type of offer.
- Since that time, he states there have been a number of other matters involving Anne's Choice that were cleaned up and an amendment made to the Development Agreement which consolidated the escrows for Neighborhood 1 and Neighborhood 4. He said in June 09', the Original Deeds of Dedication were forwarded to Mr. Savona along with a request for the Boards consideration of Acceptance of Dedication (Veterans Way – Veterans Circle) with a reminder to the Board that Pennoni's letter dated December 9, 2008 indicates that the work had been done to Pennoni's satisfaction and that the areas were patched appropriately and in accordance with Township standards.
- Erickson has asked him to come before the Board tonight in an effort to resolve this matter short of having to litigate Erickson's entitlement to dedication.
- He says that Erickson has been able to work cooperatively with this Township close to ten years and has managed to avoid litigation since they have always been able to work things out. With that in mind, he has been authorized by Erickson to offer the Township an unrestrictive contribution of \$15,000.00 to be used any way they see fit. The Townships acceptance is subject to the caveat of the Township acceptance of dedication of Veterans Way and Veterans Circle and subject to the caveat that the customary Maintenance Bond be waived.

**Michael J. Savona, Esq.:**

- Tells the Board, for their edification, that this matter has been discussed today and on a number of occasions with Mr. VanLuvanee and the tendered Deeds of Dedication for the roads is being held in safekeeping by Mr. Tate. They have not accepted them.

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OLD BUSINESS (Cont'd)

G. Consideration of Acceptance of Veteran's Way and Veteran's Circle (Cont'd)

Michael J. Savona, Esq.: (Cont'd)

- He says Mr. VanLuvancee has fairly characterized the issue. .... The road was paved with a final top coat before all the work was done. There was a need to open the road. It was inspected when it was patched and it was patched to the Townships specifications. We do have a letter from Pennoni certifying it was done up to standards. Mr. Schroeder can comment if he disagrees with anything said.....

Kurt M. Schroeder, PE: I have the same understanding.

Michael J. Savona, Esq.:

- Says under those circumstances it would be difficult to imagine that it would be prudent for the Township to say that....the roadway..... having been repaired to the Townships standards is unacceptable to accept as a Township Road. There are a lot of roads in Warminster that are patched to the same Township standard....
- Says Mr. VanLuvancee's offer is not unfair. ....He doesn't believe the Board would be doing a disservice to the residents by accepting the contribution, adding it to the road funds and bringing the roadways within the Township roadway system. He thinks this is in the interest of resolving the matter, getting the road accepted into the public road system, allowing collection of liquid fuel monies for those roadways and putting the issue behind us as we continue to wrap up the outstanding Erickson issues.

**QUESTIONS / ANSWERS**

Gail Johnson wants to know if something was wrong with the way the lights were installed and isn't that part of this dedication.

Jim Krueger:

- The question that Mr. Johnson is bringing up is the problems we're having with the lights on the Park Road from Johnsville Blvd. back to the pavilion. That is being worked on. This is the problem our streetlight crew found. We are correcting it.

John VanLuvancee, Esq.:

- The only thing I can say Mr. Johnson is that in the December 9<sup>th</sup> Pennoni letter which included comments regarding both Johnsville Blvd. and Veterans Way and Veterans Circle there was a comment regarding the lights on Johnsville Blvd. but there were no comments regarding the lights on Veterans Way or Veterans Circle.

Leo Quinn wants to know if the roads need to be repaved and is there still construction.

Michael J. Savona, Esq.:

- According to Pennoni, by their certification in December, the road was acceptable for dedication. It is more of an aesthetic issue.

Kurt M. Schroeder, PE:

- There is going to be more construction. There are still lots that are unoccupied that Franklin owns that they could come in and develop. They will need to cut into the roadway to tap into the utilities that are in that roadway.

<p>Ellen Jarvis made the motion to accept the unrestrictive contribution of \$15,000.00 that is subject to the acceptance of dedication of Veterans Way and Veterans Circle and that is subject to the waiver of the customary Maintenance Bond. The motion was 2<sup>nd</sup> by Fred Gold. The Vote carried 5-0-0.</p>
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**OLD BUSINESS (Cont'd)**

**A. EAC –Environmental Advisory Council**

**1) Discussion on Placement of Solar Panels – Approval of Memorandum of Understanding with the TRF Sustainable Development**

**Gail Johnson:**

- He says as part of the SmartPower initiative, residents signed up for clean energy and committed to over 100,000 kilowatt-hours per month. This, in conjunction with the Townships commitment to purchase 20% of its electricity from renewable sources, has qualified Warminster Township to receive from the TRF Sustainable Development Fund the gift of a Solar Panel (PV System-photovoltaic system).
- He says the Library is the ideal spot for the Solar Panel. The Township sponsors the Library. The benefits the Library gets by having free energy from the Solar Panel will also benefit the Township.
- He mentions that the Solar Panel provides a little over 1 kilowatt of power. This can be expanded to 3 kilowatts.
- Says the Memorandum of Understanding was reviewed by Mr. Savona. Upon accepting the gift of the Solar Panel, we as owners will have full responsibility. Signatures are required.

**Kathy Frescatore-Warminster**

- She commends the Board for bringing green into our Township and for obtaining the Solar Panel.
- She inquires as to how soon after the solar panel is installed are energy savings realized.

**Gail Johnson:**

- He says the Solar Panel will be piped into the electric power of the Library. It requires a PECO hook up. The technical details are unclear to him. The Library's electric bill will go down the next month after the Solar Panel is installed.
- He says the Solar Panel is not going to generate enough energy from one kilowatt of power to actually sell power back to PECO.
- It will reduce the Library's utility bill.

**Ellen Jarvis made the motion for the approval of  
the Memorandum of Understanding with required signatures.  
The motion was 2<sup>nd</sup> by Fred Gold. The Vote carried 5-0-0.**

**2) Approval of Resolution # 2009-08 – PA Conservation Works – Recovery Grant**

**Gail Johnson:**

- He says as part of the economic stimulus package, the Township is going to apply to the PA Conservation Works for a grant to fund energy efficient streetlights. Our eligible project is to have all the Townships 452 street lights retrofitted to LED (light emitting diode) lights.
- He says the LED lighting will decrease the energy use of the streetlights by about 75%.
- LED lighting has no toxic chemicals like mercury or lead. It does have a ten year life span and requires much less maintenance. At today's energy prices, it will be save the Township about \$28,000.00 a year.
- He says the Township, on its own, is eligible to request a grant in the amount of \$250,000. Ivyland Borough who is also looking to replace all their streetlights with energy efficient streetlights (LED) passed a resolution last night that allows them to team up with us. Ivyland and Warminster operating as multi-municipal project (two or more) may request up to \$500,000.00. Ivyland will take \$100,000.00 and we will take \$400,000.00.

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**OLD BUSINESS (Cont'd)**

**A. EAC –Environmental Advisory Council (Cont'd)**

**2) Approval of Resolution # 2009-08 – PA Conservation Works – Recovery Grant (Cont'd)**

- He says the Township would be applying for a grant in the amount of \$400,000.00. As our matching obligation, the Township will put up the labor for the actual installation of the LED streetlights (to date the township crews have installed 10 LED streetlights). It is estimated that this project will take between 600 to 1200 man hours of work over the next year. Pete Carter is confident the project can be completed with the current staff. There is a possibility that one or two other project may be deferred.
- He says the grant application must be in by tomorrow. Tonight, we the supervisors have to approve Resolution #2009-08– PA Conservation Works – Recovery Grant to move forward.

**Bob Tate:**

- He says that Dan McPhillips (Chairman of the (EAC) Environment Advisory Council) has provided a lot of information. He started the process yesterday working on the actual application. It is an on-line application. It is just a matter of filling out a lot of information which Dan provided and we are going to upload it. We will be transmitting it before 4:00 PM tomorrow.
- He says that Walt Bloom, who has worked with Pete Carter on the design, can comment on the actual specs and the lights.

**Walt Bloom – JKB Services – Warminster**

- Says they have been working very closely with Dan McPhillips and with some of the other EAC members to put this grant together.
- Says some of the advantages with going with the LED lighting are:
  - The electricity bill is going to be cut by at about 70 to 75%.
  - The old bulbs and the ballast all contain mercury and a lot of toxic chemicals. The Township is going to be removing about 55,000 to 56,000 milligrams of mercury from the environment.
  - In the grant request, it is noted that we have contracted with a Doylestown Company to safely and legally dispose of hazardous waste. So that will be taken out of the environment as well
  - Over the ten year span of the light bulbs, we will be taking between Warminster and Ivyland about 428 1/2 tons (857,000 lbs) of CO<sub>2</sub> (Carbon dioxide) emissions out of the environment because of the reduced need for electricity generated.
- He says that Dan will be ready for tomorrow and expects that we will hear by October whether or not we get the grant monies.

**Leo Quinn:**

- Expresses concern about breakage as far as vandalism and wants to know if there is a way to protect the LED lights.

**Walt Bloom – JKB Services – Warminster**

- The LED themselves are not glass. They are shatter resistant and very tough. Anything short of a bullet is not going to damage the light
- There are different kinds of lights. We have some in the cobra heads now which is a direct replacement bulb protected by the globe itself of the cobra head. They are a lot more vandal resistant than your traditional bulbs.
- Even if part of LED light were to be damaged it would not result in a catastrophic failure. The light itself will still work. If a little piece goes out, the rest of it will still work. It is not all interdependent upon each other.
- We will be stocking here in Warminster. There will not be any kind of a delay or lag replacing anything that may be damaged.

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**OLD BUSINESS (Cont'd)**

**A. EAC –Environmental Advisory Council (Cont'd)**

**2) Approval of Resolution # 2009-08 – PA Conservation Works – Recovery Grant (Cont'd)**

**Ellen Jarvis made the motion for Approval of Resolution # 2009-08 – PA Conservation Works – Recovery Grant. The motion was 2<sup>nd</sup> by Fred Gold. The Vote carried 5-0-0.**

**3) Senior Center Energy Audit**

**Gail Johnson:**

- The EAC is working with the Senior Center in anticipation of an Energy Audit to save them money.
- The cost of a complete certified building energy audit is estimated to be approximately \$1200.00.
- If this works as a pilot project we could possibly use the same firm to do an Energy Audit for the entire Township.

**Ellen Jarvis:**

- In the paperwork given us by the committee, it is noted that there is a \$70.00 balance owed to LMM who fronted the money to purchase the missing plans and drawings that have been received from George Donovan.

**Ellen Jarvis made the motion for the payment of \$70.00 to LMM for purchase of plans and drawings. The motion was 2<sup>nd</sup> by Fred Gold. The Vote carried 5-0-0**

**4) Utility Bill Audit**

**Gail Johnson:**

- It is recommended that John L. Butler of Municipal Utility Advisors conduct a Utility Bill Audit for our Township. They would look over our suppliers for the last four years to determine if mistakes have been made.
- Mr. Butler has a history of finding mistakes. In return for his services, the Township will pay 50% of each refund or credit, plus 25% of ongoing savings each month for a period of 48 months (4 years).

**Ellen Jarvis:**

- Says she has some editorial changes to the cover letter authorizing Mr. Butler to access our billing and contract information. She passes that over to Mr. Savona for his review.

**Ellen Jarvis makes a motion for approval of the MUA - Cost Reduction Agreement contingent on Mr. Savona's review and approval. The motion was 2<sup>nd</sup> by Fred Gold.**

**Leo Quinn:**

- Says the idea is noble but what is being charged is hefty. He parallels his thinking with their recycling negotiations which didn't come near this kind of money. Actually, it was a huge savings and the Township makes over \$100,000.00 a year in additional revenues. We pay \$10,000.00 or \$15,000.00 a year at a significantly lower percentage.

**Ellen Jarvis amends her previous motion. She makes the motion that Mr. Savona negotiates the MUA contract (Utility Cost Reduction Agreement). The motion was 2<sup>nd</sup> by Fred Gold. The vote carried 5-0-0.**

**Michael J. Savona, Esq.:**

- Says that he and Bob Tate will review the contract and meet with Mr. Butler. They will come back with terms that they're willing to recommend for the Boards signature.

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**OLD BUSINESS (Cont'd)**

**A. EAC –Environmental Advisory Council (Cont'd)**

**4) Utility Bill Audit (Cont'd)**

**Ellen Jarvis:**

- She takes this opportunity to mention that an award will be presented to Warminster Township in September due the efforts of Environmental Advisory Council. Mr. Johnson and members of the EAC will be accepting that award which is a salute to the work the EAC has been doing with Mr. Johnson on behalf of the Township.
- She wanted to recognize this terrific committee in light of Mr. Johnson bringing up so much of their work.

**Gail Johnson:**

- Says the award is for our using clean energy.
- He compliments the committee members for doing an amazing amount of work.
- He says the key is we have great volunteers.

**Frank Feinberg:**

- Says the committee's great work has made Gail's dream for clean energy materialize.
- Says the efforts of the EAC will save the Township a fair amount of money but will have a significant environmental impact.

**B. Review of Candidates for Appointment to Warminster Municipal Authority Board**

Leo Quinn makes a motion that we appointment Kenneth (Ken) Penko to the Warminster Municipal Authority Board. The motion was 2<sup>nd</sup> by Gail Johnson. The vote carried 4-1-0 (Gold)

Fred Gold makes the motion that we appoint Joel Neulight. There was no response.

Frank Feinberg made the motion that the nominations be closed.  
The motion was 2<sup>nd</sup> by Ellen Jarvis. The vote carried 4-1-0 (Gold).

After the vote in favor of Mr. Penko, Mr. Feinberg states that Mr. Penko can be ready to assume his duties at the next meeting of the Warminster Municipal Authority.

**Leo Quinn:**

He believes the Board has made a good decision. Mr. Penko has been donating his time to Warminster Township for many years. He was on the Finance and Long Range Planning Committee many tireless years. He will do an excellent job on the Warminster Municipal Authority Board.

**Fred Gold:**

Joel Neulight has a BS in Chemical Engineering from Drexel and a MBA from Temple. He has thirty years experience in the water industry. He would have been the better candidate for the Water Authority.

**C. Appointment of Pension Fund Manager**

**Bob Tate:**

- Says since 2001 Warminster Township has retained the firm of Trollinger Consultant Group, now called Trollinger/Univest Group, as Investment Advisor for its Pension Fund.
- Says the Pension Committee (primarily employees) has been actively involved with the advisor. Over most of the years the results have been good.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**OLD BUSINESS (Cont'd)**

**C. Appointment of Pension Fund Manager (Cont'd)**

**Bob Tate: (Cont'd)**

- Says last year there was an economic downturn. Because of the things that have occurred, the Board's attention has been turned toward becoming more involved. They have an interest in monitoring more closely what is going on with our Investment Advisor and the actual management of our Pension Fund.
  - Says there are plenty of firms out there looking to gain our business and he has met with several different advisors. He narrowed the field when he found two Pension Advisors that he thought would do a good job managing our Pension Fund. In September 2008, he presented them to the Pension Committee. At the PSATS (PA State Association of Township Supervisors) conference just this past April, the advisors had an opportunity to meet with a couple of the Board members. About two months ago we had the advisors here for an open meeting.
  - Says, we are looking to make sure the firm we entrust to manage our Pension Fund is doing the absolute best job:
    - To insure that the Pension Fund continues to be well funded.
    - To insure the investments are done prudently and in best interest of the employees and the long term needs that the Pension Fund is designed to provide.
  - Says in addition to the Trollinger/Univest Group, we have in mine two other viable candidates. They are CoreStates Capital and Courtney Investing Group.
  - Says the Board members have had the opportunity to meet all three candidates. Before the Board tonight is the following topics of discussion:
    - A. Do we make no change and continue with the Trollinger/Univest Group?
    - B. Do we select a new advisor to replace the Trollinger/Univest Group?
    - C. Do we select one or two of them to invest part of the Pension Fund?
- With this option Trollinger/Univest Group could be retained for the management of some of the fund and allow one of the other brokers to manage a percentage of the Assets. In a year we can evaluate the results and see if one advisor is outperforming the other.

**Leo Quinn:**

- Says Trollinger has done a good job for the Pension Fund until last year. The Fund lost 37% (This was corrected by Gail Johnson as being a minus 29%).
- Says the CoreStates proposal mentions that even if they did nothing different than what is being done now they would save us \$85,000.00 to \$105,000.00 in fees. He thinks CoreStates should be given an opportunity.
- Says his conservative approach and what he recommends would be to give Trollinger 50% and CoreStates 50% of the Pension Fund and give them two years to try to show what they can do. One year is not long enough.
- Says the present Policy Statement needs to be change to provide more latitude to the Pension Committee.
- Says we should present a new Investment Policy Statement to the advisors for their approval. He is confident, because this is what they do for a living, they will give us guidance.
- Says the whole idea is not for us to become financial experts in this but allow someone else to be more proactive.

**Fred Gold:**

- Says the letter from the Pension Committee states they would like to keep what they have (Trollinger).
- Says the Pension Committee represents the people here with pensions. He would like to go along with who they would like to use, for their pensions.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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OLD BUSINESS (Cont'd)

C. Appointment of Pension Fund Manager (Cont'd)

**Gail Johnson:**

- Says at the pension meeting the other day, it was apparent that the committee wanted to stay with Trollinger. Even though he did his own little analysis he was willing to go along with the group. He found CoreStates interesting and thinks it might make sense to give a little of the money to somebody else and see how they do for awhile. It is a tough call.

**Ellen Jarvis:**

- Says she took the letter from the Pension Committee very seriously because it is their money we would be investing.
- Her inclinations would be to continue with Trollinger at 100%. She supports the Pension Committee's recommendation.

**Frank Feinberg:**

- Says the original numbers we saw did show that Trollinger lost at 37%.
- Says CoreStates lost was about 10%. They did some hedging; they had commodities like gold and they were in areas that the Pension Committee group thought inappropriate for a Pension Fund. It included currency exchanges. This is really tricky unless you know what you are doing.
- Says we obviously don't even have a consensus here and suggests the following:
  - Let's work this year to review and rewrite the policy and add some flexibility. We can go over it in detail with the Pension Committee. Maybe we can get input from the three pension advisors.
  - Let's revisit this whole thing in January with Trollinger, CoreStates and Courtney to see what each group did.
  - Let's make our decision then on this foundation.

**Michael J. Savona, Esq.:**

- There are limitations under the Second Class Township Code. They incorporate limitations under their Fiduciaries Act.
- There is a very limited class of investments that are acceptable to invest Municipal Pension Funds.
- When the policy is re-examined just admonish the committee to be aware of the legal limitations on where we can put our money so as not to get ourselves beyond the scope of investing in what is legally allowed for Township investments funds.

**Frank Feinberg:**

- CoreStates did make the point that their plan was acceptable and within the legal guidelines.

**D. Recommendation for Appointment of Health Insurance Broker**

**Bob Tate brings forth the following information:**

- The Township has retained the Health Insurance Broker for the past nine years. The Broker has been responsive and works well with the employees.
- In 2008, when the plan was changed to a partially self-insured plan with a pharmacy carve-out we no longer were just dealing with an insurance company we now dealt with a Third Party Administrator (TPA) and a Pharmacy Benefit Manager; with that there are costs involved. The costs are generally offset by the self-insurance. We tend to save money by self-insuring part of the medical costs.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
MINUTES OF THE PUBLIC MEETING  
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OLD BUSINESS (Cont'd)

D. Recommendation of Appointment of Health Insurance Broker (Cont'd)

Bob Tate brings forth the following information: (Cont'd)

- At the beginning of the year, a competing broker approached the Township with an offer to manage the plan and save us more money. After discussions with the Board and on the advice our Solicitor, in May, the decision was made to put out a Request for Quote (RFQ) with the response date due back by July 1, 2009. Nine Brokers responded.
- At this time, after gathering all the information we could find and with follow-up discussions we considered four of the Brokers who responded to be the best viable candidates. Even that could be subject to change.
- He has had discussions with Mr. Johnson and is recommending tonight that we expand the Audit Committee to become an Audit and Insurance Committee. Mr. Johnson has already volunteered. Possibly, with another member of the Board and one or two employees we could treat the Health Insurance Broker as we treat our Solicitor, our Engineer and outside Accountants. They come in and they are interviewed. It is a personal relationship. It is an important relationship. We would come before the Board to report on our findings. This is something we want to expedite within 30 days.

**DIALOGUE EXCHANGE / STATEMENTS MADE**

**Frank Feinberg:**

- We would want to do a Public Work Session for Health Insurance Brokers. The whole Board can be there and the public can ask questions.

**Ellen Jarvis:**

- The competing broker (Model Consulting) found a huge discrepancy in fees the Broker was charging.

**Bob Tate:**

We pay our Third Party Administrator ClaimLinx a fee of \$30.00 per employee/per month, to process all the medical claims. It is true that the Broker (Maxion & Maxion) was actually getting \$14.00 of the \$30.00 fee. This was something that was not disclosed.

**Ellen Jarvis:**

- After the person from the competing firm found discrepancies, it was decided to put out a RFP (Request for Proposal). Our conducting a RFP and opening the door to anybody else to take advantage of the work that he did I think is reprehensible for us to do.
- Why aren't we giving credence to the fact that this person did a ton of work for us that eventually will save the Township and the Taxpayers a lot of money? From a business perspective, I think that we should applaud the efforts of this guy who came in and did the work and give him the benefit of representing us. He has given us a great proposal. The spreadsheet shows us that his costs are competitive and we would be saving an expected annualize savings of more than \$80,000.00 a year.
- Why are we being ignorant about this? Our Broker continues to charge us these fees that were not disclosed to us. As we wait around for another 30 days he can still charge us, still continue to abuse us and we have nothing. I think we should go with Model Consulting they help find us the money.

<p>Ellen Jarvis made the motion to accept Model Consulting for our Health Brokerage Services coming forward. The motion was 2<sup>nd</sup> by Frank Feinberg for discussion.</p>
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**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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OLD BUSINESS (Cont'd)

D. Recommendation of Appointment of Health Insurance Broker (Cont'd)

**DISCUSSION**

**Fred Gold:** He would like to table this and would like to hear from each one of the Brokers.

**Leo Quinn:** Inquires as to how the Maxion discrepancies were discovered.

**Bob Tate:**

- This is a tough industry. There are no regulations. I commend Mr. Model. When he found out we had a different type of model, a unique model, he wanted to look into this. In January, when he came in, all the Township had to give him was an Informational Broker of Record Letter. That gave him the right to contact every one of the carriers and administrators and ask questions about fees, the structure and how it works.

**Note:** as was previously mentioned, Mr. Model found the discrepancies and soon thereafter the RFQ for Insurance Broker was authorized which resulted in nine responses.

- The process has drug out, it has been a couple months. I will say a Broker relationship is important.
- If the Board would vote tonight, I would suggest we consider carefully how we make the change because we do have multiple parties involved. We do have a contract with our Pharmacy Benefit Manager for the Year. With a change, I don't know whether or not that company would chose to fulfill that contract. There are just pieces to this puzzle that makes me want to move delicately.

**Ellen Jarvis:**

- Without belaboring it, if we are unable to use the same pharmacy provider as part of this, we could go to the corner drug store and get our drugs cheaper than what this Township has been paying for drugs. Can we at least contact Express Scripts? There are plenty other pharmaceutical providers as well.

**Bob Tate:**

The contract with Express Scripts is very competitive.

**Bob Tate:**

I just want to proceed with caution because we are dealing with over 350 lives here. If the Board makes a decision right now and says we are changing we will make it happen and it will be effective immediately.

**Ellen Jarvis:**

- Brokers can come and go. They serve on behalf of this Board. The fact that we turned a blind eye and got ourselves abused obviously angers me.
- Earlier in the meeting we were considering a contract for a guy to look at our utility expenses. If he finds that we've been overcharged in the last four years we give him 50% of that amount and going forward he would get 25% of the savings for four years". What have we given Mr. Model for his efforts? Do you see the correlation?
- Mr. Model, of his own volition, came in to see what we were paying for our Health Insurance Benefits. He has asked for nothing.

**Frank Feinberg:** Inquires as to Fred Gold's opinion with prescriptions.

**Fred Gold:**

- I personally think their prescriptions prices are high. I don't see why we are paying somebody a consulting fee. The prescriptions do go right to Express Scripts. What is he consulting on, I just don't get it.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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THURSDAY, AUGUST 13, 2009**

OLD BUSINESS (Cont'd)

D. Recommendation of Appointment of Health Insurance Broker (Cont'd)

**DISCUSSION (Cont'd)**

**Gail Johnson:** Inquires as to how the prescriptions are obtained.

**Bob Tate:** Anyone on a maintenance drugs will be a mail order.

**Michael J. Savona, Esq.:**

- What you are considering right now is: Who is the individual Insurance Broker? Who is going to help you price your insurance portfolio year to year?
- Express Scripts is a component of how you are providing health coverage to the employees and how you are handling the self-insured part of your health benefit plan. That is separate from what you are considering right now.

You can still have a contract with Express Scripts and stay with your current broker. You can have a contract with Express Scripts and move to a different broker. You can change your broker and you can change Express Scripts. They are two different things.

- I always advise any municipal client that the relationship with their broker should be with an individual you can rely on to help you make intelligent decisions about:
  - What kind of insurance is right for you
  - What sort of coverage you need
  - How much insurance
  - When it is time to switch carrier to carrier
  - How you should be structuring your over-all portfolio

Insurance is generally a huge component of any municipal budget. You need a Broker that you have faith in.

- If you are choosing a Broker, I think you have to answer the questions:
  1. Is the Broker being really responsive and proactive to deciding how you should place your insurance or is he being re-active and you are going to him with ideas and going to him to ask if you should be changing?  
Most of the time good active brokers are staying on top of the account, especially an account this big that they care about not losing.
  2. Do you have faith in him, do you believe what he tells you, this is a good thing, this is a competitive price, do you believe that is the truth?  
I think that is why you are at the point where you are right now. The current broker may have done a good job in the past but it has evolved to a point that confidence has been undermined by the fact that he didn't disclose a fee arrangement that he had.
- I did advise Bob to not jump to switching brokers. You can do that. You can switch brokers once a month if you want; it is not a legally binding arrangement. Brokers serve at the pleasure of the Board just as engineers do just as I do.
- In order not to seem mercurial, in order not to diminish the confidence the other brokers would have in your sincerely in terms of pricing out the competitive arrangement, I advised Bob to level the playing field. It is probably not a bad idea to go out with a RFP and let the proposal come in so you can evaluate what is the market price for what you are getting and is there somebody better who you think could do a better job.
- That is sort of why we ended up where we are. It is a trust issue more than anything else.

**Gail Johnson:**

- There are key questions that he would like to ask the candidates. As an example: Per the Spreadsheet, why does Model Consulting Health Insurance Premium amount differ from all the other Brokers? There are many questions to be asked

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**OLD BUSINESS (Cont'd)**

**D. Recommendation of Appointment of Health Insurance Broker (Cont'd)**

**DISCUSSION (Cont'd)**

**Ellen Jarvis:**

- A lot of people don't appreciate how much homework the supervisors have. I have been through the literature from the Brokers several times and I can tell you that I was not as impressed with anyone else than I was with Model Consulting.
- The one that came closes to raising my antennae was the Benefit Processing, but I don't think they have the experience, and don't have any experience in dealing with municipal employees and municipal health benefit plans.
- Model, the one who first came in, does have municipal experience. They have a huge firm, having been doing this a long time and they have an excellent reputation with the high class insurance providers, the ones we are trying to negotiate with. That is why I am passionate about making the change. These people are good.

**Leo Quinn:** Inquires as to why the five Brokers on the right of the spreadsheet all have the exact numbers. He also inquires if the Broker (Maxion & Maxion) agreed to freeze the \$14.00 they get.

**Bob Tate:**

- When the RFQ was posted we made it clear that the Township does not desire to change any benefits levels or coverage provided. That is what we stipulated. With the union contracts, we just can't change what benefits we provide. We made it very clear that we are not willing to change the carrier, we are not looking to change the plan type and we are not looking to change any component of the plan. We are just simply looking for someone to administer the plan. A Broker to oversee and administer. They had the option to change the Third Party Administrator and change the Pharmacy.
- The five Brokers on the right just replied back that they will keep status quo, not to change anything and accept the carrier commission.
- The first four actually looked at this and said we can do better on the administrator a little benefit on pharmacy and their proposal incorporated some savings
- Regarding Maxion & Maxion, the RFQ proposal response reflects their reduced pricing.

**Ellen Jarvis:** Inquires if we still have to pay the \$14.00 for the next 30 day or can something be done.

**Bob Tate:**

The Townships contract is directly with the third party administrator (ClaimLinx) and that contract does stipulate the rate which is the 30.00 per employee.

**Ellen Jarvis** requests that Mr. Tate, for her and for the taxpayers, talk with Maxion & Maxion about the fee charge in terms of the next 30 days.

<p><b>Fred Gold made the motion to table the Recommendation of Appointment of Health Insurance Broker. The motion vote carried 3-2-0 (Jarvis-Feinberg).</b></p>
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**Frank Feinberg:** We will schedule a workshop before the next meeting and we will work out the times prior to the BOS Meeting. We will figure it out.

<p><b><u>E. Approval of the Design of Five Ponds Golf Club Entrance Sign</u></b></p>
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<p><b>Ellen Jarvis made the motion to approve the Design of Five Ponds Golf Club Entrance Sign. The motion was 2<sup>nd</sup> by Fred Gold. The vote carried 5-0-0.</b></p>
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**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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OLD BUSINESS (Cont'd)

**F. Consideration of Proposed Ordinance Authorizing the Incurrence of Non Electoral Debt**

**Bob Tate:**

Says in regard to Bond Refinancing, he asked at the last Board of Supervisors meeting (7/23/09) that we not consider refinancing. Since that meeting significant events have transpired which shows sufficient savings are now available to justify refinancing.

Says the week following the last meeting, he had a conference call with Scott Shearer, Public Financial Management and Standard and Poor's. As a result he was made aware:

1. The Townships Credit Rating came back AA- (minus) which is tremendous in this economy.
2. The Bond Refinancing that is under consideration could be done on a five year call.
  - a) We still have a fourteen (14) year life on our Bonds with a five (5) year call.
  - b) There would still be an opportunity to refinance if necessary by the year 2014 with nine years left. Market conditions would dictate that.
3. Given the Credit Rating (AA-) the five-year-call we have an opportunity to meet a minimum savings target of 3%.
  - a) We may exceed 3% a little – based upon some of the responses that Public Financial Management had received to their bid.
  - b) We have some options to save in excess of \$200,000.00.
  - c) We do not extend the life of the Bond.
  - d) We do not borrow any more money.

Says we can follow through on this option and save a considerable amount of money in the year 2010, for the Township. That is why this is back on the agenda for tonight for the Board to consider moving ahead with refinancing.

Ellen Jarvis: I don't know if we necessarily need any more information from Mr. Shearer. We have gotten a lot of information. This is an exciting opportunity for the Township to save approximately \$200,000.00 which represents about a half of a mill.

Ellen Jarvis made the motion to approve the 2009 Ordinance # 688 and to accept  
Public Financial Management as our Bond Agent.  
The motion was 2<sup>nd</sup> by Gail Johnson for discussion. The vote carried 5-0-0

**Questions / Answers**

Leo Quinn: How are we able to go from 1.156% return to now seeing 3.79%?

**Scott Shearer:**

- It is just a factor of market fluctuations.
- All we need is movements in the Bond market of say 10 basis points 1/10 of a percent and savings are completely under water and is not worth doing. It is fairly sensitive.
- Back when we were running the preliminary analysis I was being a little more conservative assuming the Townships Credit Rating in the higher single "A" category. Standard and Poor's rating of "AA-" was better than expected. There is actually a big rate differential between the single "A" category and the "AA" category and that also is what put us over that hump.
- We are seeing large fluctuations on a daily basis. After your last meeting, we had some other bids come in, things looked very, very good. We had a sale for very similar credit and similarly rated entity. I saw those rates and plugged it in. I contacted Mr. Tate. We were on the phone then sort of discussing the next steps.

Fred Gold: The Feds just came back and said they don't expect the interest rates to up right now.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**OLD BUSINESS (Cont'd)**

**F. Consideration of Proposed Ordinance Authorizing the Incurrence of Non Electoral Debt (Cont'd)**

**Scott Shearer:**

- The Feds don't expect the short term interest rates to go up so they are keeping the feds fund rate the same. No one really knows what is going on.
- The Fed also announced that they are going to slowly stop the treasury buy back. They bought hundreds and hundreds of billions of securities to try to keep the treasury rates low, that would impact mortgage rates keep them low and so forth. Now that they're putting a slow halt to that (which we all knew it only had about a six month shelf life).
- The anticipation is because of that we are going to start seeing long term treasury rates start to rise. Will the municipal rates follow? History tells you that they will, but to what extent? No one really knows what is going to happen in the future.

**Leo Quinn:**

- When you came before the Board with your first proposal, Fred and I never heard of you and never met you. We had some consternation that evening. Ultimately that evening, all five of us agreed to go with that proposal.
- After that meeting, I wanted to make sure I was comfortable with the different fees. I did an analysis based on what we spent in 2004 for our Bond and what the Municipal Authority did in 2009.
- Bob Tate did an analysis for us here on a spreadsheet. What I found that is "not" on this spreadsheet is the monies that Public Financial Management was going to charge us in their original proposal. You reduced your underwriters discount from 8% down to .51%. The bond insurance premiums come down from .44% (It was originally \$30,000.00 it is down \$24,000.00).
- Bob Tate also went back out to that same company that first did the work and asked them what they would charge us again if they would float this Bond now. What they would charge us is 1.91%. What you would charge is 1.88%. Difference is .03%

**Bob Tate:** The one significant change was the Bond Insurance Premium. He extends his apology that this updated information wasn't placed in the Supervisors Packets.

**Michael J. Savona, Esq.:** Brings forth the following information:

- In this case, the underwriters discount is set by Janney Montgomery Scott. They are the entity to underwrite the Bonds.
- This PMF proposal there would be no bond insurance. The Bonds go to market without the insurance because of our credit rating. The entire \$24,000.00 line item comes off.
- PFM is not underwriting the bonds they are managing the sale.
- First American is a Bond Underwriter.
- Each underwriter bids it differently, it depends. Bank of America may want insurance while Janney Montgomery Scott is willing to take a chance without insurance.
- First American, in their proposal, included bond insurance. That is this underwriter's practice.

**Leo Quinn:** An Auction Administrator Fee was in the original proposal, in this proposal it is zero.

**Scott Shearer:**

- Initially, we were going to do the competitive bidding through the internet. That fee was going to be paid to a third party administrator out of Pittsburg.
- Because of the Market volatility, we went back to the old fashion way where we email the RFP out and ask for them to provide it back.
- It is basically one bid and one bid only. It is also good for a longer period of time. So by doing it this way we are able to eliminate that fee.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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OLD BUSINESS (Cont'd)

F. Consideration of Proposed Ordinance Authorizing the Incurrence of Non Electoral Debt (Cont'd)

Leo Quinn: Inquires as to the Financial Advisor.

Scott Shearer: As Financial Advisor, I lowered that fee from \$13,500.00 to \$13,000.00.

Leo Quinn:

- At the end of the day, because I questioned it and because we went through this process, what you are charging us is down significantly from where we were a couple months ago to the tune of about \$26,000.00 if you hold what you gave us.
- In the state of N.J. you can't even do this unless it is 3%".

Scott Shearer: Our New Jersey office handles that. I can't speak for NJ law. There is no law in Pennsylvania related to your statement".

Gail Johnson: Inquires as whether amounts are hard numbers.

Scott Shearer:

- Their fees are locked in - their no insurance is locked in - their interest rate spread off of \*index\* is also locked in. (\*index\* – a nationwide index that all underwriters use when they go to price buys).
- The fees are hard numbers but the interest rates will not be locked in until my guess is Monday. When we do that we will send around a whole new set of numbers reflecting that with a little summary page so everyone sees all the final numbers.

Leo Quinn: Inquires as to why the Bonds amount differs in the Ordinance verses Schedules.

Scott Shearer:

- Per the winning proposal from Janney Montgomery Scott the actual size is 5.9 Million.
- The parameter ordinance 6.5 million gives flexibility. We put in the 6.5 million just as a pure round number. We leave that flexibility in there. If the savings gets better the size of your issue is going to change. If savings gets worst the size of your issue is going to change.
- We put in a 7% interest rate as well which we know we will never hit a saving target at 7% but we have to comply with state law.
- A parameter ordinance involves no new money. The purpose of this transaction is only for the refunding of the 2004 Bonds.

Gail Johnson: He inquires as to the need for new money.

Michael J. Savona, Esq.:

- It actually proves to be cheaper to borrow the money through a five year short term note through one of your local banks.

**NEW BUSINESS**

**A. CVS Pharmacy – County Line and York Roads – Preliminary/Final Plan**

Michael J. Savona, Esq.:

- This is the time of presentation for the application of CVS Pharmacy for Tax Map Parcel No: 49-18-56-1, 56-58 and 70 for Preliminary and Requested Final Land Development approval, for the Land Development Parcel containing approximately 1.84 acres at the north east corner of York and County Line Roads presently zoned C-Commercial.
- The Applicant is present this evening represented by Marc Jonas, Esq., Eastburn & Gray.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**NEW BUSINESS (Cont'd)**

**A. CVS Pharmacy – County Line and York Roads – Preliminary/Final Plan**

**Marc Jonas, Esq.:**

- Says this is a proposed consolidation of a number of lots at the corner of County Line and York Roads for the proposed CVS.
- This proposal was taken to the Bucks County Planning Commission and they provided recommendations.
- Says the Township has reviews from their Township Engineer, from the County and the Township Planning Commission. One of the conditions as recommended by the local Planning Commission concerned traffic.
- Says for review, their Traffic Consultant provided traffic information to the Township Engineers.
- Says they received relief relating to signs from the Zoning Board. There were no other significant zoning issues.
- Says there is a needed waiver relating to driveway widths.
- Says at this point, the key issue is related to some traffic improvements primarily along County Line Road that are largely reflective of existing conditions that have grown bad over time. The Township is focused on a right turn lane and improvements needed to do that.
- Says prior to the meeting tonight, they talked with the Township Engineer and Mr. Savona regarding traffic improvements and architecture for the building.

**Michael J. Savona, Esq.:**

- Says the Engineering Review Letter, from Mr. Kennard, dated May 27, 2009 is relevant to this consideration. He also notes that included as part of record in this matter is the Applicants Engineer's Response Letter (Bohler Engineering) dated May 29, 2009, that indicates that the Applicant either acknowledges the Township's Engineer's Review Letter comments (each and everyone) or will comply with the requirements set forth in the review letter.

**NOTE: Marc Jonas, Esq. acknowledges that is still the case.**

**Michael J. Savona, Esq. and Kurt M. Schroeder, PE – In their exchange of dialogue have defined that the Applicant is seeking from the Subdivision Land Development Ordinance the following two waivers:**

- 1. Waiver from the requirement of Section 404 & 406 - The requirement of the partial waiver requirements is to show all features within 400 feet of the property and that would include detail information like contours, utility information. If not necessary for this application, instead, they could show an aerial image of that distance and also show features within fifty (50) feet of the property and that should be sufficient for us to do a review. The Township Engineers supports that Waiver (review letter)**
- 2. Waiver from the requirements of Section 510.4 - to permit driveway in excess of maximum. The Township Engineers supports that Waiver as long as the waiver remains as shown currently on the plan.**

**Michael J. Savona, Esq. to Marc Jonas, Esq.:**

- **Would you be satisfied if we were to impose the normal condition that the waiver to be granted is subject to the Applicant providing such details as required by the Township Engineer?**

**NOTE: Marc Jonas, Esq. says yes that is acceptable.**

**Michael J. Savona, Esq.:**

- **Says regarding a waiver from the requirements of Sections 301.2 & 305.2, in order to grant the Applicant Preliminary and Final Plan approval it is his understanding the Township Engineer did not support this request because of some outstanding traffic issues.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**NEW BUSINESS (Cont'd)**

**A. CVS Pharmacy – County Line and York Roads – Preliminary/Final Plan**

**Kurt M. Schroeder, PE responding to Mr. Savona:**

- **Initially, we were not in support of this waiver because of traffic issues but since that time and since the Planning Commissions meeting we have received the Traffic Impact information prepared by the Applicant's Engineer.**
- **There has not been sufficient time for an official response to the Applicant's engineer's traffic letter but it has been reviewed and we went back to the Applicant and made recommendations.**
- **Tonight the Applicant is prepared to agree to install a right turn lane along County Line Road which would exist between Evergreen and the intersection with York Road.**
  - **It will serve a lot of purpose in assisting with the functionality of that intersection in that movement.**
  - **It will enable that intersection to function better.**
  - **It will allow more traffic to move through that light at the intersection - improve that level of service.**
  - **It will also reduce the stacking that occurs on that lane. The cars won't back up as far and hopefully won't back up into the Evergreen intersection which is where there has been a problem.**
  - **It will also enable that signal to function differently.**
  - **It will allow for a left turn movement from York Road onto County Line and also enable a right turn movement off of County Line onto York Road simultaneously.**
  - **It helps to improve functionality and that something we will work with PennDot to see if that can be accommodated. It is a minor change to the signal but improves the functionality a great deal.**

**If this right turn lane is installed, will that enable Evergreen Avenue to have left turn movements out of it onto County Line? Presently there is an existing restriction. You cannot make a left hand turn onto County Line Road from Evergreen.**

- **By adding this turn lane and the reduction in the stacking lane is our recommendation, but we have to defer it to PennDot. Ultimately, it is going to be their decision with the HOP process that it be evaluated and considered to allow that left turn movement.**
- **There is concern with the residents who live on Evergreen Avenue, Aspen and Madison, that if that left turn onto County Line is restricted, the traffic coming out of CVS that wish to go in that direction will take the back roads which will be Evergreen to Aspen and out to the signal at Madison and County Line in order to head down County Line Road. It will reduce that cut through traffic, it won't eliminate it completely.**
- **We need to defer to PennDot for their HOP approval on this and we would recommend any condition be subject to their approval.**
- **Based on that, any other information that is reviewed with the Traffic Impact Studies; this would be the biggest improvement that the Township could ask for at this time.**
- **This is the only opportunity the Township has to accommodate that right turn lane. The fact that the Applicant is agreeable to do that we feel comfortable that this is an opportunity to grant the Preliminary and Final tonight subject to the conditions that these improvements are installed.**

**Michael J. Savona, Esq. to Kurt M. Schroeder, PE:**

- **Inquires as to what the approximate cost to the Township if they had to undertake these improvements for this right hand turn lane.**

**NOTE: Mr. Schroeder responds that \$300,000.00 is in the ballpark for the improvements.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**NEW BUSINESS (Cont'd)**

**A. CVS Pharmacy – County Line and York Roads – Preliminary/Final Plan**

**Michael J. Savona, Esq.:**

- **Mr. Jonas I understand that your client is willing to agree, as a condition of approval, to make that right hand turn installation a condition of our grant of Preliminary/Final approval and of grant of that waiver subject to the conditions that Mr. Schroeder outlined with respect to the elimination of the left hand turn prohibition off of Evergreen onto County Line and subject to PennDot approval.**

**NOTE: Mr. Jonas responds that the Applicant is prepared to do that. That is absolutely accurate. Our traffic engineer is here and he would echo the analysis heard from the Township Engineer.**

**Frank Feinberg: Expresses his concern about allowing a left turn. He thinks it is a dangerous situation to make a left turn across essentially four lanes of traffic.**

**Michael J. Savona, Esq.: Asks Chief Murphy “do you have any input from a traffic safety angle that would cause you any concern”?**

**Chief Murphy:**

- **Evergreen is in close proximity to the intersection which is controlled by the light.**
- **We have numerous other four way lane highways that people cross routinely. The cruxes of a lot of complaints we get from our residents are relative to traffic conversing through their neighborhoods. I think by allowing a left turn there, obviously there is always a potential for a crash, it eliminates other issues that would crop up in the absence of that which would be a significant amount of vehicular traffic through the neighborhood there and go out through the light at Madison Avenue.**
- **It is very difficult to look to the future and say would it have a potential for a crash there, yes but we have a number of significant highways here specifically Street Road that has other streets and driveways that are in close proximity to our traffic lights. I don't foresee any particular issues there because the site will be much improved with all the other improvements. I don't foresee any substantial issue with making a left hand turns there that are any different from any of the other intersections that we have.**

**Ellen Jarvis:**

- **Says, she raised the issue that we don't have a PennDot letter on this and we still haven't seen a Traffic Study.**
- **Says she appreciates and respects the willingness to put in the much needed turn lane. If it were necessitated down the road it would be the Townships responsibility.**
- **Says she passes the intersection (Evergreen & County Line) at least four times a day. That is an impossible intersection to come out of to make a left hand turn. She personally witnessed four accidents in the last month of people turning left out of Discovery House parking lot which is just down the road from that.**
- **She asks that issue be looked at more closely and questions whether it is going to dump more traffic running parallel to York Road onto Evergreen. Suggests something is needed to deter such as posting signs that say something like “Local Traffic Only”.**
- **Says she would like consideration to not making that left hand turn, but, people are still going to make it regardless even if you posted no left hand turn. So, she would just not change that.**
- **She asks “is it possible, with a contingency, that some of the parking along County Line Road be taken out and leave it green?”**

**NOTE: Mr. Jonas responds that CVS needs the parking on the site so nobody parks offsite. It is a concern that it would not be a viable site if even some parking were eliminated.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**NEW BUSINESS (Cont'd)**

**A. CVS Pharmacy – County Line and York Roads – Preliminary/Final Plan**

**ARCHITECTURAL RENDERING**

**Michael J. Savona, Esq.** expresses interest in the architecture of the CVS building since its location is a gateway entrance to the Township.

**Marc Jonas, Esq.:**

- Asks **Joel R. DelliCarpini** from **Bohler Engineering** to provide each Board member an Architectural Rendering of a style of building that has been built in **Tabernacle, New Jersey**.
- Says this photograph is a mirror image of what will be situated on this property.
- Says the Applicant is willing to offer tonight, as a condition of approval, this CVS enhanced version of architecture.

**Leo Quinn:** Inquires as to driveways, landscaping and what will go along the northern part of **York Road** for the neighbors.

**Marc Jonas, Esq.:**

- There are two driveways on **Evergreen**. The driveway further north is going to be restricted to allow only Trucks to exit. Cars will not be able to exit - cars will be able to enter.
- There is one driveway on **York Road** (a right in, right out driveway)
- There will be “no driveway” on **County Line Road**. The plan eliminated eight driveways.

**Joel R. DelliCarpini:**

- Says, the plan proposes street trees along both frontages, those trees will be 18 to 20 feet high. Also there is going to be a dense shrub row surrounding the perimeter of the parking.  
**NOTE:** Mr. Schroeder points out that with the installation of the right turn lane part of the green space shown on that plan now will be eliminated with the widening of **County Line Road**.  
Says they will still have room for a hedge row. It will have curbs, sidewalk and hedge row along **County Line**.
- Says there are a couple of large existing trees along **Evergreen**. We are going to do some special measuring to make sure we can keep one tree in particular that is close to the intersection of **Evergreen** and **County Line**.
- Says they will be providing significant buffering and street trees along **Evergreen**.
- Says the brown area depicted on the rendering is a mulch bed and within that is going to be large shrubs.
- Says along the northern part of **York Road** they are just showing it as a green space and have agreed to do some additional buffering.

**Marc Jonas, Esq.:**

- Says a neighbor on **Evergreen**, **Mrs. Trenich**, had some understandable comments at the **Planning Commission** meeting and he spoke with her again this evening. She has concerns with lighting and respecting her property.
- Says **Mrs. Trenich** will contact him and the plan will be sent to her. Then he'll be talking with her and to the developer about addressing lighting and buffering to address her concerns.

**Leo Quinn:** Inquires about fencing and suggests that something should be put there to keep people from cutting through **Mrs. Trenich** property. Says it is a path of least resistance.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**NEW BUSINESS (Cont'd)**

**A. CVS Pharmacy – County Line and York Roads – Preliminary/Final Plan**

**Joel R. DelliCarpini responds to Mr. Quinn:**

- A sidewalk will be provided to bring the pedestrians down Evergreen toward the front of the store and we'll be providing additional landscaping that will prevent people from walking through.

**Frank Feinberg: Inquires as to the curb ramps being ADA compliant curb.**

**Kurt M. Schroeder, PE:**

- Says the intersection at County Line and York has recently been upgraded with ADA compliant curb ramps and they are going to make sure it is connected via sidewalks into their site. Handicap compliant curb ramps will be put in any new driveway location that crosses a sidewalk.

**CRAFTING OF A MOTION**

**Michael J. Savona, Esq.:**

- If the Board is inclined after consideration of the discussions sort of on the record a motion would be in order to approve the application of CVS Pharmacy for the location at York Road and County Line Road - Tax Map Parcels # 49-18-56-1, 56-58 and 70 for consolidation and Land Development as a CVS Pharmacy - Township Planning Commission # 09-02,
- subject to the Applicants compliance with all the terms, conditions and provisions of the Township Engineering Review Letter, dated May 27, 2009 concerning compliance with the Zoning Ordinance, the Subdivision and Land Development Ordinance, Storm Water Management Ordinances, ADA and other Accessibility requirements and all other Township requirements set forth in the Code of the Township of Warminster and further subject to the following waivers that the Applicant be granted:
  - a waiver from the requirements of Section 404 and 406 of the Subdivision and Land Development Ordinance to permit a partial waiver so that the Applicant only provides the water courses, sanitary sewers, storm drains, and similar features as required by the Township Engineer,
  - a waiver from the requirements of Section 510.4 of the Subdivision and Land Development Ordinance to permit driveway widths in excess of the required maximum widths of the property lines and streets as long as long as the Applicant does not deviate from the widths depicted on the current plans, and
  - a waiver from the requirements of Sections 301.2 & 305.2 in order to grant the Applicant Preliminary and Final Plan approval,
- subject to the following conditions:
  - the Applicant will agree to the installation of a right turn lane on County Line Road between Evergreen and York Road, and
  - the elimination of the left hand turn restriction from Evergreen onto County Line Road,
  - the review and approval of the PA Department of Transportation,
  - the Applicants compliance with any recommendations from the Township Engineer, the Traffic Engineering and from PennDot with respect to the installation of those improvements, and further subject to
  - the Applicants design and construction of the building at the location pursuant to the Applicants presented rendering of the CVS location at Tabernacle, New Jersey as well as.
  - the Applicants continued compliance with any or all other requirements of any outside agency having jurisdiction over this matter including the PA Department of Transportation, the Bucks County Conservation District, the Township Fire Marshal and any other authority having jurisdiction over any aspect of this plan or approval.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**NEW BUSINESS (Cont'd)**

**A. CVS Pharmacy – County Line and York Roads – Preliminary/Final Plan**

**Leo Quinn so moved the motion to approve the Preliminary and Final Plan for CVS Pharmacy as defined by Michael J. Savona, Esq., Township Solicitor. The motion was 2<sup>nd</sup> by Fred Gold.  
The vote carried 5-0-0.**

**Michael J. Savona, Esq.:** Mr. Jonas, on the record, can I have a waiver of the 15 day requirement to issue the approval letter assuming that I might need it but I usually don't.

**Marc Jonas, Esq.:** So waived.

**B. Consider Authorizing Solicitor to Appeal OOR (Office of Open Records) Decision**

**NOTATION**

The Board of Supervisors has before them a copy of the FINAL DETERMINATION of the Pennsylvania Office of Open Records in the matter Signature Solutions (NJ Company) v. Warminster Township

**Michael J. Savona, Esq. provides the following background information:**

- Since the implementation of the revisions to the Right to Know Law, the state has established the Office of Open Records in Harrisburg, PA. It is their job to insure that the Municipalities in Pennsylvania and state agencies that are charged with complying with the Right to Know Law comply with the Right to Know Law.
- Any individual who makes a request for public record, who believes that their request is denied, either denied outright or denied in part incorrectly has the right to appeal the local agency, a Determination to the Office of Open Records, who would then issue a decision whether or not we must comply with that request.
- This has proven to be a colossal pain because the Office of Open Records has been flooded with appeals. This unfunded mandate has this Township and other Townships compiling cost (staff time and professional reviews) incurred in complying with the Right to Know Requests.

**Michael J. Savona, Esq. provides the following information pertaining to this case:**

- The company Signature Solutions is involved in Title Work and Closings. A search on the Office of Open Records website, of the reported decisions shows that Signature Solutions submitted a dozen or more Right To Know Requests. Two of them landed here in Bucks County, Warminster Township and Middletown Township. Both towns he represents.
- They sent a Right to Know Request to Mr. Tate, in this instance, requesting that he essentially provide to them Tax Certification information that would ordinarily be obtained through the Township's Tax Collector.
- That information is not a part of the records that this Township maintains. We don't keep tax payment records. The Tax Collector, collects the taxes, provides us a report of how much was deposited and from what source. Ultimately, any proof of payment on any particular parcel that paid taxes comes from the records maintained by the Tax Collector. She maintains them because the Local Tax Collection Law requires that she do so. She is named in that law as the legal custodian of those records. Her office is also exempt from the Right to Know Law.
- If you want tax payment information, you are required to go to the Tax Collector and pay whatever costs are associated with the Tax Collector's researching whatever taxes had or had not been paid for the year and providing you that information.
- The Township does not maintain Tax Records. That is not something the Township Manager deals with in the regular course of business.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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NEW BUSINESS (Cont'd)

**B. Consider Authorizing Solicitor to Appeal OOR Decision (Cont'd)**

**Michael J. Savona, Esq. provides the following information pertaining to this case: (Cont'd)**

- **Signature Solutions requested that our Township Manager provide them the information. We denied that request because it is not a Township record and because we don't have any information that is responsive. They appealed.**
- **The Office of Open Records (in both instances, Middletown and Warminster decisions came down at the same time.) has now held that those records  
even though the Local Tax Collection Law provides that the Township Tax Collector is a separate agency, is a separate entity, and is the legal custodian of those records, notwithstanding, because the Tax Collector is collecting Township Taxes,  
the records are constructively ours. Bob Tate as the Open Records Officer for this Township, if he receives requests for tax payment information, is obliged to go to the Tax Collector obtain that information so he can forward it to the requesting party even though we don't maintain it and even though it is not in our legal custody**

**Michael J. Savona, Esq. provides continuing comments:**

- **It doesn't sound like it is a big deal but the practical effect of it is that any Title Company like Signature Solutions who wants to handle these Closings and not pay for Real Estate Tax Certifications (which the Tax Collectors under the law have the right to charge for) are now going to be directing those requests to our Township Manager on top of everything else he has to do for the Township.**
- **Barbara Loftus, Tax Collector, estimates she has done between four and five hundred Real Estate Tax Certifications in any given year and some years more if there is a lot of turnover. All of those requests conceivably could now come through the Township Manager who is going to be responsible to process those requests within five days and turn the information back around to the individual requester. It is an administrative nightmare.**
- **We also believe it is not within the authority that's been granted to the Office of Open Records to say that it's the Townships custody that triggers the ability for us to respond to those record requests. I have major problems with the legal basis of the decision and have issues with the amount of administrative burden.**
- **There are other conflicting decisions from the Office of Open Records that would seem to suggest if the Tax Collector chose to charge us the \$30.00 or \$25.00 whatever it is for the Tax Certification we would be obliged to pay to access that information but we are limited by the Right to Know Law to charge the requester only twenty-five cents a page to provide that information. It is a ridiculous holding.**
- **What I am suggesting and requesting authorization from the Board to do is to file an appeal of that determination to the Bucks County Court of Common Pleas.**
- **I have already got authorization from Middletown Township, the issues are the same, and we can share the costs. I would have to file two separate appeals because they are two different cases.**
- **Middletown Township feels very strongly about this as well. We think it is colossally over burdening the Managers office to have to deal with these things when they should be properly dealt with, which they have been for generations, through the Tax Collectors Office.**
- **I think it would be in the Townships best interest to challenge the Holding of the Office of Open Records and give a Bucks County Judge the opportunity to rule on whether he believes legally that their Holding is correct. I can tell you in a neighboring county, in Delaware County similar circumstances, similar set of facts, similar issues the Court of Common Pleas overruled the Office of Open Records and found that the Office of Open Records was incorrect in finding those were Township records that they were responsible to disclose.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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NEW BUSINESS (Cont'd)

B. Consider Authorizing Solicitor to Appeal OOR Decision (Cont'd)

**QUESTION – ANSWERS - STATEMENTS**

**Fred Gold:** Inquires as to a possible class action suite.

**Michael J. Savona, Esq.:**

- Under the procedures, through the Office of Open Record, there is no opportunity to jump on Board. They have to make a request of you and you deny it and there is an appeal and the Office of Open Records issues a decision.
- It just so happened that Middletown and Warminster got a request from this same party at the same time by more circumstance and coincidence

**Leo Quinn:** Inquires as to the cost.

**Michael J. Savona, Esq.:**

- With splitting the cost between Warminster Township and Middle Township may be \$1,500.00 to \$2,000.00
- It is not an adversarial process, it's not a trial. You file an appeal, file a brief and probably go to an oral argument.

**Leo Quinn:** Says he can bring this before BCATO (Bucks County Assoc. of Township Officials).

**Michael J. Savona, Esq.:**

- Says somebody needs to take them to task. Our staff if going to be saddled with a huge amount of administrative burden. When the only thing that's changed is a company from N.J. doesn't want to pay \$25.00 to get a certification.

**Ellen Jarvis:** Inquires if PSATS (PA State Association of Township Supervisors) has any type of input or involvement in this.

**Michael J. Savona, Esq.:** Not as yet.

**Ellen Jarvis:** Inquires as to taking the OOR (Office of Open Records) to task to re-coop money.

**Michael J. Savona, Esq.:**

- The Right to Know Act statute sets the fees we can charge to a maximum of 25 cents a page. So the State Legislature has sort of handcuffed us to that amount as reimbursable costs.
- There are some authority from OOR that suggests we might be able to re-coop if there is a acquisition request for us to retain the data but typically that refers to if you are copying plan sets, an electronic medium where there is extraordinary costs.
- I am not sure how they would treat us passing along some sort of certification fee and we are not even in a position to certify in the first instance. That is the Tax Collector's job. We don't have any legal authority to certify paying the taxes. We can't certify anything.
- In any event, to pass it through the managers office is an administrative headache.

**By a general consensus, the Board authorizes Mr. Savona  
to file an Appeal of the Determination by the Office of Open Records  
to the Bucks County Court of Common Pleas**

**NOTATION**

**The determination by the Office of Open Records obliges the Township Manager as  
the Open Records Officer upon receiving requests for tax payment information  
to go to the Tax Collector (legal custodian)  
to obtain and forwarded that information to the requesting party.**

**The Township does not maintain those records and is not legal custodian.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**NEW BUSINESS (Cont'd)**

**C. Tri-Centennial Committee vacancy/change**

**Ellen Jarvis:**

- **The Tri-Centennial Committee has two appointed members whose resignations need to be accepted as a formal part of the procedure.**
  1. **Robert Goodyear – formal resignation**
  2. **John Lennon – resignation through death.**
- **The Tri-Centennial Committee needs that the name of Wenzel Pisch be removed and replace with the name of Edie Bitterlich. There was a misunderstanding initially when the VE Club requested representation.**

<p><b>Ellen Jarvis made the motion for the approval of the resignations of Robert Goodyear and John Lennon (deceased) and changing the name of the committee member Wenzel Pisch to Edie Bitterlich. The motion was 2<sup>nd</sup> by Fred Gold. The vote carried 5-0-0.</b></p>
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- **She makes the following announcement for the Tri-Centennial Committee.**
  1. **The committee will come before the Board in September with the winner of the Logo Contest - a student here in Warminster**
  2. **The committee will mention some of events being planned for our Tri-Centennial Year 2011.**
  3. **There are two openings on the Tri-Centennial Committee and the committee is also seeking additional members. Send resumes to Bob Tate.**

**D. Communications Advisory Board/Public Service Programs**

**Ellen Jarvis:**

- **On behalf of the Communication Advisory Board she asks that the Supervisor permit the inclusion of Public Service Programs on our TV Channel to supplement some of the air time we currently have around the Township.  
For Example: Anne's Choice has a couple of programs on medical issues that might be useful (they have a full production studio).**
- **She asks the Board to require that the Committee use their discretion, that the program is not offensive and be screened effectively with Ed Calhoun, our Township Representative.**

**General Consensus of Acceptance**

- **She makes the following announcements for the Communications Advisory Board.**
  1. **The music on the TV station has now changed. The next four months the music rotations will be Classical, Dinner, Big Band and Jazz.**
  2. **The committees Agenda is being sent to Larry DerHagopian, for inclusion on the TV and website.**
  3. **The committees meeting are open to the public.**
  4. **The committee is asking for new members.**
  5. **The next meeting is September 1, 2009 at the Township Building.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**FINANCE**

**1. Approval of Bill list for August 13, 2009**

**BILL LIST FOR THE PERIOD ENDING AUGUST 13, 2009**

<b>Prepays - \$808,799.01</b>	
General Fund	\$ 267,717.51
Library Fund	107,917.75
Park & Recreation Fund	89,793.48
Storm Water Management Fund	226.07
Sanitation Fund	306,667.33
Golf Fund	358,190.36
Debt Service Fund	186,001.49
Highway Aid Fund	23,343.17
Payroll Dated July 23, 2009	326,600.31
Payroll Dated August 6, 2009	<u>310,749.83</u>
Grand Total	<u>\$ 1,977,207.30</u>

**Fred Gold so moved the motion to approved the Bill List for August 13, 2009.  
The motion was 2<sup>nd</sup> by Ellen Jarvis. The vote carried 5-0-0.**

**Fred Gold:**

- Says as liaison to the Golf Committee, Tuesday evening he attended their meeting. It seems the Golf Club has different vendors but the restaurant has one vendor from whom they are buying a lot of food in excess of what is allowed by law.
- He asks "is it necessary to put that out to bid?"

**Michael J. Savona, Esq.:**

- Yes. Any vendor from whom we buy goods and services (that is not a professional service) is qualified under the Township Code and it is not for maintenance, repair and existing township facilities and the contract is going to exceed \$10,000.00 must be bid or purchased through COSTARS (those are contract approved vendors we piggy-back on).
- We should not be contracting randomly with any vendor who has not been through a public bidding process of some kind.

**Fred Gold:**

- He says that was his contention. He asks Bob Tate to talk about this with Mr. Alvarez'.

**Bob Tate:**

- We had a conversation this week and we will be meeting tomorrow.
- We will begin putting together the necessary bid specs primarily for the food purchases.

**Fred Gold: Where do we stand on the Janitorial?**

**Bob Tate:**

- I have given everyone the website for COSTARS.
- We have gone to other suppliers. Hillyard has applied for COSTARS approval back in June. Their application is pending.

**Michael J. Savona, Esq.: Who are we buying from in the meantime?**

**Bob Tate: There are several. I don't know their names offhand.**

**Fred Gold: Ninety percent is Hillyard. Looking at the Bill List it seems that most are Hillyard.**

**Bob Tate: We moved from Hillyard following the last meeting. There are some invoices that trickled over. They were already ordered but not in our procession at the time.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**FINANCE (Cont'd)**

**Michael J. Savona, Esq.:**

- **The Board directed the Staff to move toward COSTARS Program. On the Consent Agenda Items tonight, there is a separate bid for uniforms. I know as a fact there are COSTARS contracts to provide for that.**
- **You are talking about putting together bid specs with Joe for food. Why are we not first identifying a COSTARS vendor to determine if is not a price we want, that it is inconvenient to buy from them or there is no vendor?**

**Bob Tate: We will look to COSTARS for the food.**

**Michael J. Savona, Esq.:**

- **Regarding the bid going out for uniforms, why would we be bidding uniforms? There is cost incurred to bid those uniforms. The advertising cost and the Staff time to process the bid spec and figure all that out is going to cost money. You could go to the COSTARS vendor and actually negotiate the price to whatever you're paying now.**

**Bob Tate:**

- **It has only been 4 or 5 weeks that the Staff has been exposed and becoming acclimated to COSTARS.**
- **Two meetings ago we had the discussions about buying from Hillyard. We stopped the next day.**
- **The Staff has been given access to the website; we had a discussion at our Department Head meeting. They are getting use to navigating around and finding what they want. We are moving in the right direction.**

**Fred Gold: Office supplies?**

**Bob Tate:**

- **Those are spread around between multiple vendors already and who we use is currently on COSTARS.**
- **I will continue to reinforce using COSTARS which makes our lives a lot easier.**

**Michael J. Savona, Esq.:**

- **Keep in mind that COSTARS prices are not final prices on anything. Those are subject to negotiation.**

**OTHER BUSINESS**

**A. CELL TOWER - AT & T - Appeal of Zoning Hearing Board decision**

**Michael J. Savona, Esq. provides an overview of the AT & T Appeal process:**

- **The Zoning Hearing Board's (ZHB) decision rendered in the AT & T application is subject to appeal because the Applicant disagrees with the ZHB determination.**
- **The Appeal process (Land Use Appeal) is provided for under the Municipalities Planning Code.**
- **The Applicant, within thirty days of the Zoning Hearing Board's decision, has the ability to file a Notice of Appeal (a specific legal document that sets forth the reasons why they disagree with the ZHB determination). They file that document in the Court of Common Pleas of Bucks County.**
- **In this Appeal, the Trial Court Judge will act like an Appellant Court. He is going to review the record, look at the Zoning Hearing Board decision, read through it and determine if there were enough witnesses to support the facts they found and if they applied the law correctly. It is basically an abuse of discretion standard that we apply.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**OTHER BUSINESS - (Cont'd)**

**A. CELL TOWER - AT & T - Appeal of Zoning Hearing Board decision (Cont'd)**

**Michael J. Savona, Esq. provides an overview of the AT & T Appeal process: (Cont'd)**

- **The Judge will decide, after hearing legal arguments presented to him, in written briefs by the Attorney for the Appellants AT & T and any Attorney who appears on behalf of any intervening parties.**
- **The Appellant is AT& T. They're the ones who filed the appeal. The Appellee (party being appealed) is the Zoning Hearing Board. It was ZHB decision that resulted in what AT & T alleges are errors that are costing them their variances or keeping them from developing their tower.**
- **Parties to the Appeal are:**
  - **The Applicant –AT & T (Appellant) who appealed.**
  - **The Zoning Hearing Board (the Appellee) whose decision is being appealed.**
  - **In limited circumstances individuals who are interested in the appeal can seek permission from the court to intervene by filing a Petition to Intervene.**
- **The way you can intervene is:**
  - **If you are an interested party who appeared and received party status in the Zoning Hearing Board.**
  - **If you are an aggrieved party, if you have been given party status by the Zoning Hearing Board then you can petition the Judge who is hearing the appeal in Common Pleas Court to permit you and whoever else who wants to be heard in participating in the litigation even though you are not an Appellant or Appellee. It is called being granted Intervener Status. The Judge grants the Intervener Petition then you have a right to file a brief, typically, through your lawyer. You can file a brief, your lawyer can participate in the oral argument and your say can be heard by the judge (he or she) that is making a decision as to whether or not there is merit to the AT & T Appeal.**
  - **The Township has a right to intervene if they believe they have an interest that needs to be pursued independent of the parties, because, obviously individual parties that appeared at the hearings have a different set of interest than the Township does.**
- **Right now under Bucks County Court rules the appeal has been filed. The following is the next step in the process:**
  - **The litigants file what is called Rule 27 Conference. This is a request to meet with the Judge to set up a briefing schedule and the argument date to dispose of the merits of the appeal. The Court would then hold a conference, issue an order, set the briefing schedule and argument date. The matter would be argued in front of the Judge and the Judge at some point thereafter would render a decision whether to uphold the Zoning Hearing Board, reverse the Zoning Hearing Board, reverse it and remand it down for further hearings or grant the relief. The judge has very wide latitude, as all judges do, as to what he or she will do with the appeal.**

**Note:**

- **There is no further process or proceeding on the Township level. The Board of Supervisors does not hear it.**
- **There is not going to be another hearing on the merits where you would get up and testify like we did with the Zoning Hearing Board process.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
MINUTES OF THE PUBLIC MEETING  
THURSDAY, AUGUST 13, 2009**

**OTHER BUSINESS - (Cont'd)**

**A. CELL TOWER - AT & T - Appeal of Zoning Hearing Board decision (Cont'd)**

**Fred Gold inquires as to how long the appeal process takes.**

**Michael J. Savona, Esq.:**

- **The appeal is not going to move quickly. I would say six to nine months before the court would get it resolved if not longer in Bucks County. Nothing moves quickly in Common Pleas Court. You are looking at 30 days before it is scheduled, you are usually looking at two to three months before the briefs are all filed and the argument will be held and after that it really depends on the Judge. Some of them write quicker than others. I have had certain Judges take 1 ½ years to get an opinion out. It really depends on their schedule. I wouldn't expect anything to happen before year end.**

**Leo Quinn inquires as to what would occur if the Zoning Hearing Board decision was overruled.**

**Michael J. Savona, Esq.:**

- **The court's decision in Bucks County would still be subject to further appeal. If the court overrules the local Zoning Hearing Board, there are parties who petitioned to intervene and to participate and decide they don't believe the court is correct. There is an automatic right to appeal to the Commonwealth Court. There could be one more layer of review after the Bucks County court reviews it.**
- **Assuming no appeal is filed and the matter comes back to the Township, we treat cell tower placement as Land Development so there would be an application that would have to be prepared showing the site location and all of the things you would normally look at in a Land Development application and that would have to come back to this Board and the Planning Commission for review, comment and approval.**

**Fred Gold wants to know if the Board could not give their approval.**

**Michael J. Savona, Esq.:**

- **You could do anything. This one is a little bit different because you have a contractual obligation to AT&T to provide them a location for the tower. What the legal result that would be from AT & T's perspective I can't even begin to speculate.**

**Leo Quinn inquires to the possibility of suggesting the site behind the seventh green on the back of Grace Lutheran Church.**

**Michael J. Savona, Esq.:**

- **We did approach AT & T with that. The answer that I got from AT & T's attorney was that AT&T would be willing to look at an alternative site if Warminster Township was willing to pay for all the site reviews and engineering reviews that would be necessary to determine whether or not that was appropriate.**
- **AT & T's position is basically that they have spent enough money searching for a site in Warminster they settled on this site position, in this location. Unless, and until a court tells them they can't locate the tower there, they are not going to be willing to spend any additional funds doing a site review or exploration.**
- **There is something the Board may want to consider. In Bucks County (Doylestown) there is a group called Tower One that have been approaching local municipalities about partnering with the local government in trying to locate cell towers in areas where it doesn't impact residential neighborhoods and where the municipality would be able to yield some benefit.**
- **They are an independent company not a carrier. They actually just put up a tower in Warrington.**
- **They use municipally owned properties in areas where they try to do smart placement. Where it is not going to be up against a neighborhood. Some place where it is not going to cause any harm to the neighbors or the residents and yet it still provides the coverage opportunity. If it is done on municipal property, we still reap the revenue from the rent. They front all of the costs for the site location and the site review.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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OTHER BUSINESS - (Cont'd)

A. CELL TOWER - AT & T - Appeal of Zoning Hearing Board decision (Cont'd)

Frank Feinberg expresses interest in talking with the Tower One Group.

**Michael J. Savona, Esq.:**

- I would say if that is something you are interested in doing we could probably get away with filling an intervention. It is much easier for us as a municipal party. I don't have to file a petition to intervene, I just file a one page Notice of Intervention and we are parties. I can do that even up to six or eight weeks out, I have done that before. So, if you wanted to have some sort of presentation from this group we could probably arrange that for the next meeting and you could consider that option and then decide if you want to go ahead and file the notice. I can do it the next day it is not.
- If we would find an alternative location for the tower, I am sure AT & T isn't going to be interested in paying their lawyers to litigate just for the fun of it. If there is a reasonable alternative that they can work out where they can sign a lease and use the tower, I'm sure they would discontinue the appeal.
- I would not have said this a month or two ago. There is another option. Try to get a tower put in that doesn't involve AT & T. That changes the dynamics a little bit now because AT & T doesn't have to pay money. The playing field may have changed and it might be worth exactly what we said. Take a look at our options in two weeks. Make a decision if we want to explore that avenue, file the intervention notice and see what we can play out.

<p>The general consensus of the Board of Supervisor authorizes the contacting of Tower One for a presentation at their next meeting August 27, 2009 and the filing of the Notice of Intervention</p>
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**PARTY STATUS RESIDENTS – QUESTIONS / ANSWERS**

Shawn Fichter – 473 Mae Drive – wants to know if the Board will intervene.

**Michael J. Savona, Esq.:**

- Within two weeks we are going to come back here after hearing a presentation from another group that may be able to look at exploring alternative locations. If that looks like a viable option then I will file a notice of intervention. At that point, we will see how that plays out.
- Of course AT & T is going to get contacted. If we hook up with another organization, they are going to call them. We may have an opportunity here, let's not press the appeal. That thing can set on the books for two years without moving and nothing has to happen.
- I can't give you a guaranteed concrete determination other than to say in two weeks come back. We'll hear a presentation and if the Board is comfortable then I will file a notice of intervention after that meeting.

Shawn Fichter – 473 Mae Drive - The party status residents have to intervene on their own behalf.

**Michael J. Savona, Esq.:**

- You have 30 days to file a petition to intervene. The Appeal was filed July 29<sup>th</sup>. You can file a notice of intervention or a petition to intervene up to the end of this month.

Shawn Fichter – 473 Mae Drive – We are asking for your support in this matter.

**Michael J. Savona, Esq.:**

- I would advise anybody to consult their own lawyer because your interests are your own.
- Even if we intervene, the Board ultimately ends up deciding what is in the Townships best interests.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**OTHER BUSINESS - (Cont'd)**

**A. CELL TOWER - AT & T - Appeal of Zoning Hearing Board decision (Cont'd)**

**PARTY STATUS RESIDENTS – QUESTIONS / ANSWERS (Cont'd)**

**Shawn Fichter – 473 Mae Drive – wants the Boards position on the Zoning Hearing Board decision.**

**Michael J. Savona, Esq.:**

- **The Board would not be discussing how to go about my intervening if they didn't support the Zoning Hearing Boards determination.**

**Shawn Fichter – 473 Mae Drive**

- **Testimony at the Zoning Hearing shows that AT & T did site specs for three other locations. They already paid the money to do multiple site specifications.**

**Michael J. Savona, Esq.:**

- **I am aware of that. Which is why they don't want to explore anymore.**

**Paul A. Aldinger – 1016 Birch Road**

- **Says he is the ex-chairman of the Council at Grace Lutheran Church and He was the party that started talking almost two years ago with AT & T. He retired this last January.**
- **The new Council has written a letter to AT & T just reaffirming the church's position to sit down with AT & T and discuss the placement of that tower in the back of their property.**
- **The Board was given a copy of the letter.**

**Theresa Stollsteimer – 425 Mae Drive**

- **Says that not one party status person received notice that AT & T was appealing. This was found out by chance. They got a copy through email from Ellen Jarvis.**
- **She asked how they get AT & T to send them a copy.**

**Michael J. Savona, Esq.:**

- **The Appellant is obliged to serve notice on all parties when they file the actual Land Use Appeal. Under the rules, it should have been served on you.**
- **I am not going to speculate that is a material defect, it is something your lawyer would have to press. The Township did receive notice so that is not an issue that I've looked at.**

**Theresa Stollsteimer – 425 Mae Drive**

- **She wants to know when will it be known that Tower One will be here in two weeks and asks if they don't come, will the Board still have Mr. Savona intervene?**

**Michael J. Savona, Esq.:**

- **I would say I'm planning on them being here in two weeks. If for some reason they are not, it will be reflected on the Board's Agenda which is available on the website.**

**In conclusion, Mr. Savona summarizes as follows:**

- **We will intervene. You are not going to lose your chance to have the Township intervene. Don't let anybody walk out of this room thinking the Board doesn't support you. The Board is 100% behind you. We are going to do everything we can to make this work, in a way that's makes sense, for all the residents in the Township.**
- **I will say that the Board is going out on a limb because we do have a contractual obligation to give AT & T for that site. The Board is directing me to intervene. I think that is a testament to how much they are supporting your position.**

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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OTHER BUSINESS - (Cont'd)

**B. Act 32 – County EIT Study**

Leo Quinn inquires to the required appointment, by September 15, 2009, of Township representatives for Act 32 – the County EIT (Earned Income Tax) study.

The general consensus of the Board of Supervisor appoints  
Bob Tate - Ginnie Gehring - Frank Feinberg (if needed) as representatives for Act 32 – EIT Study.

**PUBLIC COMMENTS**

**Mike Sullivan – 1103 Tollhouse Lane**

- He is here to put a face to the letter sent Mr. Feinberg regarding the serious storm water problems he has been dealing with for the seven years that he has lived in the Township. He has had damage done to his house.
- Says for drainage in his backyard he has river rock, 12 inch pipes, three 18 inch drain boxes and an 18 inch berm the length of his yard. The 18 inch berm fills up with water that is coming down from Anthony Wayne Drive through the backyards and right through his property. He has driven around that neighborhood and found there are no storm drains up there on that whole block except down on the one end there are two.
- Says the last two storms were wild. With one or two inches of water the berm fills and the overflow of water runs down the side of his house. In the crawl space, the foundation is getting cracks and wet marks. He is now afraid all the water is going to cause additional damage.
- Says he has reached out to the Township on several occasions. Tom Thern and the previous Engineer were to his house and gave some advice. With the information he has gathered to fix this problem he has spent over \$21,000.00. At this point, he is at his wits end.
- Says he is a reasonable guy but his property now acts as a storm drain. He needs the Township to know the seriousness of his drainage problems seeks help.

**Frank Feinberg:**

- Says in many areas of the Township there are problems. Mr. Tate, Mr. Krueger and Mr. Schroeder are presently addressing the area off of York and A. We recognize our need for a major effort starting next year in resolving the problems.

**Bobbie Loftus – Villa Drive**

- She is here this evening, as a homeowner, to express her concern with the door to door night time solicitation (as late as 10:00 PM), that is presently going on in the Township.
- Says this past very hot Monday evening at 9:00 PM a large man in a hoody (hood on his head) knocked at her daughter's door and she told him to go away. When her daughter went into the living room she saw that the man was standing in front of her picture window. She was scared and called me. I told her to call 911.
- Says the police officer, who came out, Officer Kate, was wonderful. She was professional and courteous and a good example of what we have in Warminster. We are lucky to have her as a police officer.
- Says a resident on Mallard Circle told her someone came to her home at 10 o'clock at night. The next day there was a break-in on Mallard Circle.
- Says that Mr. Tate told her there are quite a bit of calls to the Township with complaints about solicitation.
- Says Mr. Tate provided her today with a copy of Ordinance # 593 – door to door solicitation. The Ordinance does not address time limitation. It should state what time they must stop. When it is dark we should not allow these people to come and knock on our doors.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**PUBLIC COMMENTS (Cont'd)**

**Bobbie Loftus – Villa Drive (Cont'd)**

- Says she seeks the Boards help to correct this situation. We need to get some meat into our Ordinance so Chief Murphy has something he can back up. Night-time soliciting is scaring our residents.

**Leo Quinn:**

- Says he called the police two weeks ago about someone selling magazines. One fear is you don't know if they are casing your house.

**Chief Murphy:**

- Says he has had concerns about this Ordinance because there is absolutely nothing in it that gives him latitude to restrict. To protect the safety and tranquility of our residents, he would be totally in favor of sitting down with Mr. Savona and creating a strict Solicitation Ordinance with reasonable restrictions and one which protects the constitutional issues of those who have the right to go out and solicit door to door.
- Says he thinks we are the only municipality locally that allows door-to-door solicitation for sales.
- Says although it is not in the Ordinance the Application for the Solicitation Permit states hours on it and that the company be done by dusk. At sundown they are not allowed to solicit.
- Says that he requires that all solicitors provide identification, photo driver's license, social security numbers and date of birth. The department runs full criminal checks on these people. Based on the criminal checks he has, in the past, gone out on a limb and not issued licenses to solicitors.
- Says it is an ongoing problem that some solicitors harass and annoy residents. Yesterday, the particular solicitor that was out Monday and Tuesday had their Solicitation Permit revoked because of their highly aggressive tactics and the fact they were consistently violating the provisions of the application which said they had to be done by dusk.

<p>The general consensus of the Board of Supervisor authorizes Mr. Savona to work with Chief Murphy to re-write the Solicitation Ordinance.</p>
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**SUPERVISOR'S COMMENTS**

**SOLICITATION IN OUR PARKS**

**Ellen Jarvis:**

- Says Ordinance # 321 states no solicitation in the Township parks is allowed for the sale of anything including ice cream.
- Says according to the resident that provided her a copy of this Ordinance there is an ice cream vendor that sits in Szymanek Park and plays his music from 10 AM to 11 PM. The music is driving resident on Lea Lane out of their minds. One of the neighbors asked whether he could take out the speaker with his rifle from a hundred yards.
- Says when the police or the park staff shows up the guy disappears and moves on as he is required to do but comes right back when the coast is clear.
- She is asking for some kind of enforcement signage to keep them out of our parks.
- Says they Park Staff have chased them away because they have been an irritant. Karen suggested that a resident try to write down the license plate number.
- Says she doesn't want a resident to be vigilante.

**WARMINSTER TOWNSHIP BOARD OF SUPERVISORS  
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**SUPERVISOR'S COMMENTS (Cont'd)  
SOLICITATION IN OUR PARKS (Cont'd)**

**Michael J. Savona, Esq.:**

- The residents don't have to be vigilantes but they can be witnesses. They can file a citation when they see him directly or they can file information received.
- If a resident is that bothered by it and is willing to write down the identification information from the truck and promise the officer they will come and testify then they can identify that the violation has occurred. You don't need the police to be there instantaneously or contemporaneously.

**Chief Murphy:**

- Says we only have about six ice cream vendors in the entire Township. The operator can be identified by their license tag and he would have no problem withdrawing their permit.
- Says the ice cream vendors come in to renew their permits every thirty days. They are usually a one man operation. It is not a difficult investigation to conduct.
- The tag number would be best. He knows, for a fact, when the police go out there they'll be gone.
- Says he hasn't found records of the phone calls that have supposedly been made.
- He suggests that the residents call 215-672-1000 the police non-emergency number, this goes directly to the radio room and they will get a police response a lot quicker. Do not call the police station number (215-443-5000) because at that number they'll get a desk clerk who then has to contact the radio room.

**Ellen Jarvis:**

- Suggests writing something to the ice cream vendors about the neighbors complaining about the music. If they're going to set there, shut it off.

**Chief Murphy:**

- For the ice cream vendors, I can create a list of rules. If we are re-writing the Solicitation Ordinance we can add those types of regulations to the Ordinance.

**AGENDA FOR THURSDAY AUGUST 27, 2009**

- Tower One Presentation

**MEETING ADJOURNED AT 10:53 PM**

**INDIVIDUAL ACTION ITEMS:**

**Bob Tate:**

- Per Ellen Jarvis speak with Maxion & Maxion regarding their fee charge in terms of the next 30 days.