

WILLISTOWN TOWNSHIP BOARD OF SUPERVISORS
688 SUGARTOWN ROAD, MALVERN, PA
Monday March 11, 2019 AT 7:00 PM

The Regular Meeting of the Willistown Township Board of Supervisors came to order at 7:00 PM. Supervisors Robert T. Lange, William R. Shoemaker and Barbara L. Handelin were present. Also present were Director of Engineering & Planning Dan Malloy, Chief John M. Narcise, Lieutenant Robert P. Klinger and Township Solicitor Vince Pompo.

Special Presentation

The Police Department held their annual awards night with the following presentations. Chief Narcise awarded the following:

Officer of the Year – Officer William Viebahn

Life Saving Award – Officer Matthew Brown and Officer Zachary Bullock.

15 Years of Service – Officer Andrew Wahn

20 Years of Service – Detective Sergeant Jeff Heim

Retirement Awards – Sergeant James Daniels and Sergeant Michael Martin

Supervisor Lange presented Sergeant Daniels and Sergeant Martin each with a check for \$1,000 in recognition of their many years of loyal service to the residents of Willistown Township.

District Attorney Tom Hogan presented an award to the Willistown Police Department for a case involving an arrest for Human Trafficking and Child Pornography.

New Business

Supervisor Shoemaker moved to approve the Minutes of the Regular Meeting held February 25, 2019. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried by a vote of 3-0.

Supervisor Shoemaker moved to approve the list of expenditures and interfund transfers dated March 11, 2019. Supervisor Handelin seconded the motion. There were no comments from the Board or the public, and the motion carried by a vote of 3-0.

Supervisor Shoemaker moved to approve Resolution 6 of 2019, approving Santander Bank as an authorized depository of Township funds. Supervisor Handelin seconded the motion. There were no comments from the Board or the public, and the motion carried by a vote of 3-0.

Supervisor Shoemaker moved to withdraw consideration of proposed Ordinance 1 of 2019 which would have established a Right-Turn-Only intersection at southbound Dutton Mill Road and Street Road (Route 926). Supervisor Lange seconded the motion. The motion carried by a vote of 3-0.

John Volpe, 2081 Dutton Mill Road, asked what happened that made the Supervisors withdraw the ordinance. Supervisor Shoemaker explained that the Township gave PennDot a copy of the last meeting minutes with citizen comments and PennDot decided that a four way stop would be more appropriate.

Supervisor Shoemaker moved to approve Resolution 7 of 2019, authorizing the Township Manager to sign and submit an Application for traffic signal approval to the Pennsylvania Department of Transportation for signal improvements at Paoli Pike and Sugartown Road. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried by a vote of 3-0.

John Volpe, 2081 Dutton Mill Road, asked what the improvement would be. Supervisor Shoemaker explained that PennDot is in the process of upgrading signals and it requires someone to sign the application on behalf of the Township.

Mike Kerr, 33 Stonehenge Lane, asked if there would be a left hand turn signal on Paoli Pike. Supervisor Shoemaker explained that PennDot would not be installing a left hand turn signal. PennDot would have to determine what physical improvements would be necessary to accommodate turning lanes. This application is only dealing with the signals.

Supervisor Shoemaker moved to approve Subdivision S-4-18, the application of William Lucas for a minor subdivision (Lot Line Change) of the "Troutbeck Farm II – Lucas Lane Subdivision". The existing Lucas Lane Subdivision consists of three residential lots with frontage on and access to Lucas Lane and a fourth, non-confirming unbuildable lot that is deed restricted as open space. The affected parcels are 54-2-41.03D, 54-2-41.03C, 54-2-41.038 and 54-2-41-03A. No additional building lots are proposed. Supervisor Handelin seconded the motion. Supervisor Shoemaker explained that the landowner is considering the subdivision of Troutbeck Farm (Chance Farm). This application would allow a lot line change relative to the lots along Lucas Lane, and is not part of the larger subdivision, which has yet to be approved. There were no further comments from the Board or the public, and the motion carried by a vote of 3-0.

Supervisor Shoemaker moved to authorize the Township Manager to execute the required Developer Agreements relating to Application S-4-18, upon submission in form and substance to the satisfaction of the Township Solicitor. Supervisor Handelin seconded the motion. There were no comments from the Board or public and the motion carried 3-0.

Supervisor Shoemaker moved to approve the Settlement Agreement and Mutual Release between the Township, Kazanjian Associates, and Bank of America, N.A., Supervisor Handelin seconded the motion. Mr. Pompo explained the Dovecote development started around 1997 when the developer came before the Township and got the approvals necessary and entered into agreements with the Township for construction of the necessary improvements. Those improvements included roads, sewage pump station, a force main and some of the major collection lines to collect and convey the sewage. The project took a long time to build out which is not unusual. Because of this passage of time the dismount of the developer to dedicate the improvements to the Township took too long. Townships don't want to take improvements and be responsible for them and spend taxpayer money too soon preferring to wait until the development is built out versus waiting too long and then it becomes more difficult for the Developer to actually do that dismount because of the passage time. The Township for a

number of years pushed the Developer to do this. There were periods of time when the Township had a punch list of items that needed to be corrected. There were assertions that the Township was being unfair and expecting them to correct minor problems and holding the Developer to higher standards. The Township held escrow money to guarantee and insure these improvements would be installed.

The escrow was held by Bank of America. The balance of the escrow can only be released with the approval and consent of the Township. It was discovered the Developer went to The Bank of America and withdrew the funds without approval, knowledge or consent from the Township. As a result of that action there was law suit filed against the Township on behalf of the Developer in which the Developer claimed the Township had unjustly withheld final release of those funds and he and his company was entitled to those funds. The Township filed a counter claim against the Developer saying he was not entitled to those funds because he had not corrected the deficiencies in the improvements to allow for dedication. The Township also pursued a claim against The Bank of America that they had violated their fiduciary duty as escrow agent by releasing those funds to the Developer. That litigation is the result in bringing this settlement agreement and mutual release to the Board of Supervisors for approval.

The settlement agreement would have the Developer pay to the Township \$56,000.00, Bank of American paying to the Township \$28,000.00 for a total of \$84,000.00 in order to resolve the issue of the escrow agreement. The Township in return would release all claims against those two entities and accept dedication of the roads and the sewer facilities. Even though this is not the total monies that was in the escrow, the township would have the money to use for the benefit of the community and would avoid any further legal expense.

Supervisor Lange stated he has been on the Board since 1997 and this is the most egregious thing that has happened to the Township in his view and he does not intend to vote for approval leaving the Township out \$28,000.00. Supervisor Lange expressed his view that this is wrong and the Developer's actions were immoral and he hopes everyone understands the Board's frustration.

Mike Kerr, 33 Stonehenge, asked if there is a punch list for improvement that needed to be finished. Supervisor Shoemaker stated the sanitary pumping station was not maintained for some time. The township has taken over maintenance and installed auto dialers and the necessary things to keep a pumping station up and running. At the time the development was approved it did not require a backup generator which the Township will install. Some inlets on the roads and stormwater piping underneath were on the punch list. John Volpe, 2081 Dutton Mill Road, asked if the Township could get money back if they went go to court. Supervisor Shoemaker stated that he agrees with Supervisor Lange in every single detail except they have to go through with this to get something. This is taxpayer's money that would be expended in court, and it likely would cost the Township more money than we could expect to recover.

Tom Vecchione, 22 Smedley Drive, asked where Dovecote is located. Supervisor Shoemaker stated Dovecote is located on east side of Sugartown Road across from Sugartown Strawberries.

Supervisor Shoemaker moved to approve the Acceptance of Deed of Dedication for Dovecote Lane, Firethorn Lane and Snowberry Lane. Supervisor Handelin seconded the motion. There were no comments from the Board or the public and the motion carried 2-1. Supervisor Lange voted against this approval.

Supervisor Shoemaker moved to approve the Acceptance of Deed of Dedication and Easement for sanitary sewer lines, pump station and force main at Dovecote Development. Supervisor Handelin seconded the motion. There were no comments from the Board or the public and the motion carried 2-1. Supervisor Lange voted against the approval.

Citizen's Comments

John Volpe, 2081 Dutton Mill Road, appreciated the Board forwarding the citizen comments to PennDot regarding the Right-Turn-Only intersection at southbound Dutton Mill Road and Street Road (Route 926).

Mahala Renkey, 45 Tulip, stated that Christ Memorial Lutheran Church at 89 Line Road cut down 4 white pine trees with diameters of 2 to 3 feet. Supervisor Lange suggested the Township call the church to see why they were cut down.

Tom Renkey, 45 Tulip, stated there is a right of way at the corner of Paoli Pike and Line Road owned by the Applebrook Meadows Homeowner's Association. He asked if the Homeowners Association has the authority to remove political signs in the right of way. Supervisor Shoemaker stated that PennDot objects to signs being placed in the right of way and privately owned property requires the permission of the land owner.

Mike Kerr, 33 Stonehenge Lane, asked if the Board has considered selling the sanitary sewer system. Supervisor Shoemaker stated that there is a lot of work that needs to be done before selling the system. If there was an interest the monies from the sale would have to go toward outstanding bonds. The Township continues to work towards the reduction of inflow and infiltration of clear water into the sanitary sewer system. Supervisor Handelin said the Township Manager is exploring the possibility.

Next Meeting

The next Meeting of the Board of Supervisors is scheduled for Monday March 25, 2019 at 7:00 PM at 688 Sugartown Road.

Adjournment

Seeing no further business, the meeting adjourned.

Sincerely,

David R. Burman, Secretary

