

**WILLISTOWN TOWNSHIP BOARD OF SUPERVISORS
688 SUGARTOWN ROAD, MALVERN, PA
MONDAY, JULY 17, 2023, AT 7:00 PM**

MINUTES

The Regular Meeting of the Board of Supervisors came to order at 7:00 PM. Supervisors Robert T. Lange, Molly H.B. Perrin, and William R. Shoemaker were present. Also present were Township Manager Shanna Lodge, Chief of Police Robert Klinger, Treasurer Martin McKenzie, and Solicitor Max O'Keefe.

The meeting was called to order at 7:00 PM. Supervisor Perrin led the Pledge of Allegiance and a moment of silence for military personnel and first responders.

Announcements

Supervisor Perrin announced that the Board of Supervisors met in executive session on July 10, 2023 regarding legal matters.

Minutes

Supervisor Shoemaker moved to approve the minutes of June 19, 2023. Supervisor Lange seconded the motion. Pam Schaffer of 129 S Cedar Hollow Road requested that the minutes be changed to reflect that she "objected" rather than "complained." Manager Lodge apologized for any unintended affront, indicating that the word "complained" was used in the context of a complainant. Supervisor Shoemaker amended his motion to incorporate this word change and further elucidate Ms. Schaffer's statement at the previous meeting. Supervisor Lange seconded the motion. There were no further comments from the Board or the public, and the motion carried unanimously.

Supervisor Shoemaker moved to approve the minutes of the Special Meeting of June 26, 2023. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

Expenditures

Supervisor Shoemaker moved to approve the list of expenditures dated July 14, 2023. Supervisor Lange seconded the motion. Tom Renkey inquired regarding the heading of the list, which indicated the time since the last meeting; it was clarified that the meeting of June 26 was a Special Meeting, not a regular meeting. He further inquired about the payment to the Valley Forge Sewer Authority; Treasurer McKenzie indicated that this is the quarterly payment and it is budgeted. There were no further comments from the Board or the public, and the motion carried unanimously.

Police Report

Chief Klinger reported on recent department activity, including arrests for theft, a DUI, and weapons offenses; citations were issued for harassment, drug possession, and disorderly conduct. Two stolen guns were recovered. In addition, there was an arrest for indecent assault and inappropriate contact with a minor. Of the twenty-two vehicle accidents in June, two were deer related.

Volunteer Appointment

Supervisor Shoemaker moved to appoint David Schrader to the UCC Board of Appeals. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

2022 Audit and Financial Statement Presentation

Chris Herr of Maillie, LLP, the firm which performed the 2022 Audit, offered a presentation. The 2022 Audit was issued on June 14, 2023. There were no issues of noncompliance, and all adjustments were routine year end accruals. The net pension liability of the Township is in line with other municipalities. Capital assets are calculated to be about 19% through their useful life, while sewer assets are a little older, collectively, at 54% through their useful life.

Murray Gordon of 42 Meadow View Lane inquired regarding the life expectancy of the sewer assets. Mr. Herr noted that this depends; some assets are fully depreciated, others are brand new.

Regarding revenues and expenditures, Mr. Herr reported that most of the Township's revenue is from taxes, primarily earned income tax. He discussed the police minimum municipal obligation, which is a required pension contribution. The decrease in Public Works and General Government expenditures is largely related to capital spending. Sewer expenses increased, due largely to treatment expenditures. The fund balances for general and other government functions are climbing; the sewer fund balance is decreasing, with flat revenues over increasing expenses.

Julie Frissora of 34 Chetwynd Road inquired about the sewer expenditures and if the driving force behind the increase was the Valley Creek Trunk Sewer or the Valley Forge Sewer Authority, and the impact of the legal fees related to the sewer sale. Mr. Herr reported that the driving force is treatment, and both VCTS and VFSA are combined in the reports. Legal and maintenance costs did not increase significantly.

Mr. Herr went on to explain the software assistance, including Benford's Law and other methodology used in the audit. He referenced the SAS 114 Letter, in which a new section is required by the AICPA. This section references "Significant Risks Identified," but it should be noted that these are not findings, just items that are considered. He reported that these are included in all the municipal audits he conducts.

Henry Yordan of 152 Grubb Road asked if Mr. Herr stated that the Board receives weekly statements. Mr. Herr clarified that he may have been speaking generally about statements that the Board receives but did not mean to imply that weekly reports are given. Manager Lodge noted that the Board receives lists of expenditures at each regular meeting.

Joe Heenan of 713 Monument Road inquired about legal expenses related to the Township sewer sale and why these were not paid out of the General Fund. Mr. Herr noted that these costs were incurred related to operation of the sewer system. Proprietary Funds are distinct due to their business-like operation. A discussion followed, and Supervisors Perrin and Shoemaker noted that while the destination of sewer sale proceeds was never finalized, the sewer funds would have been closed had the sale gone through. The Supervisors reiterated that the sale was terminated. Mr. Heenan objected to the Township audit. Ms. Frissora suggested that monetization is distinct from operation and maintenance and objected to the Township audit. Ms. Schaffer asserted that expenses related to the sale did not ultimately benefit sewer users. Mr. Yordan asserted that the 2022 Audit does not fairly represent the position of the sewer fund and objected to the audit. Supervisor Shoemaker noted that objections to the audit could constitute accusations of fraud and action beyond a verbal objection would be the bringing of a suit.

Advertisement

Supervisor Shoemaker moved to authorize the advertisement of a request for bids for the Bartam Bridge Structural Rehabilitation Project. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

Resolution

Supervisor Shoemaker moved to approve Resolution 14 of 2023, the Authorization of the Purchase and Redemption of Shares in the Pennsylvania Local Government Investment Trust (PLGIT). Supervisor Lange

seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

Sewer Studies

Supervisor Shoemaker moved to issue a Notice to Proceed to Carroll Engineering to conduct a Tapping Fee Review, Capital Reserve Study, and Rate Study for a cost of \$47,360. Supervisor Lange seconded the motion. Jerry Childers of 8 Colonial Way suggested that a past sewer rate study was of minimal value. He requested additional detail and perhaps an example of a study like the one Carroll will be conducting. Manager Lodge noted that she will follow up. There were no further comments from the Board or the public, and the motion carried unanimously.

Administration

Supervisor Shoemaker moved to accept the proposal of Herbert, Rowland & Grubic, Inc. (HRG) to perform a Stormwater Study and develop a Stormwater Master Plan at a not-to-exceed price of \$149,900. Supervisor Lange seconded the motion. Fred Haack of 486 King Road noted that he understood that annual stormwater studies were conducted. Manager Lodge and Supervisor Shoemaker replied that annual reports for the MS4 program are conducted, but that that this is a comprehensive field study focused on flooding and other stormwater impacts, not just water quality. Supervisor Shoemaker elaborated on the Township's efforts to move toward proactive rather than reactive maintenance and repair. Ms. Frissora requested that action be taken as a result of the study. Lance Weatherly, Assistant Vice President at HRG, spoke about the planned analysis, specifically the GIS inventory, storm modeling, and the development of a prioritization matrix for projects. Manager Lodge explained the Request for Proposals process that resulted in HRG's proposal and selection. Murray Gordon of 42 Meadow View Lane inquired whether HRG has performed work in neighboring municipalities, which Mr. Weatherly confirmed, noting that the company has worked in West Goshen. Mr. Childers inquired about Township responsibility within state rights-of-way. Supervisor Shoemaker spoke about PennDOT liquid fuels funding and a discussion of the challenges of repairs to state roads followed. Dick McDonnell of 29 Wistar Road asked if we would get to a point where a municipal authority or other management is needed and spoke about the benefits of a subject matter expert. Supervisor Perrin noted that the sewer studies will allow the Township consider management options. There were no further comments from the Board or the public, and the motion carried unanimously.

Supervisor Shoemaker moved to accept the proposal of Gorski Engineering to conduct renovations to the Township Building lobby and front porch at a fixed cost of \$360,418. Supervisor Lange seconded the motion. Jerry Gorski of Gorski Engineering explained the project, which includes ADA upgrades, an enhanced lobby, and safety improvements. Mr. Gordon inquired whether the project is prevailing wage; this was confirmed. Manager Lodge noted this project is via a cooperative purchasing agreement. There were no further comments from the Board or the public, and the motion carried unanimously.

Supervisor Shoemaker moved to accept the proposal of Gorski Engineering to conduct renovations to the Police Building at a fixed cost of \$105,788. Mr. Gorski explained that these are interior functional renovations to improve flow. Mr. Haack recalled that there have been problems with the building, which Supervisor Shoemaker confirmed and elaborated on. There were no further comments from the Board or the public, and the motion carried unanimously.

Supervisor Shoemaker moved to authorize a Township Building window repair and replacement by Nelson Building Services Group at a cost of \$14,875. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

Supervisor Shoemaker moved to authorize an agreement with Brown & Brown of Pennsylvania, L.P. to facilitate compliance with the HIPAA Privacy Act. Supervisor Lange seconded the motion. There were no comments from the Board or the public, and the motion carried unanimously.

Supervisor Shoemaker moved to consider and approve a Settlement Agreement with the Greater Chester Valley Soccer Association. Supervisor Perrin seconded the motion. Solicitor O'Keefe explained that this relates to ongoing litigation resulting from breaches of a lease with the Township. This action by the Board will memorialize the seeking of a settlement that was agreed upon in principle before a judge of the Court of Common Pleas. Louis Pettinos of 6 Applewood Road inquired about the terms of the settlement. Solicitor O'Keefe explained that improvements that were installed upon Township property without approval will be removed by the Association. Supervisor Shoemaker noted that Township land adjacent to Serpentine Preserve will return to use related to that. Supervisor Lange noted that state laws and regulations were also broken related to unpermitted work conducted on sensitive ecological areas. He noted his objection to the settlement. He further noted that lights will not be permitted. Mahala Renkey of 45 Tulip Drive inquired whether the paving that was done by the Association will be removed; this was confirmed. Solicitor O'Keefe noted that a new lease will be entered into between the Township and the Association solely for the portion of a soccer field that extends onto the Township property so that the soccer operation may continue. Tom Renkey of 45 Tulip Drive inquired about the impact on the UDA; Supervisor Shoemaker responded that there is no impact to the UDA. There were no further comments from the Board or the public, and the motion carried 2-1.

Citizens' Comments

Mr. Heenan requested professional responses from the Board without derogatory personal comments, which he feels he has received and to which he takes offense.

Mr. Pettinos reported that in January, he asked who would be responsible for the legal bills related to the sewer sale and was told at that time it would be from the General Fund. He asserted that this was reiterated in March. He believes that the sewer users have not been well treated and did not thank the Board for how they handled the sewer sale issue and sewer citizens' group. He expressed that he is unimpressed. He added that he, too, takes exception to the audit.

Allie Barchi of 21 Laurel Circle noted that recent rains have caused flooding from Spring Road impacting Laurel Circle. She expressed concern about emergency vehicle access. Chief Klinger noted that flooding does cause challenges for emergency services, and a discussion of stormwater issues followed.

Mr. Childers suggested that Mr. O'Keefe made two different statements regarding the legal fees, suggesting a distinction between operations/management and administration. Mr. O'Keefe expressed that he believes that exploration of sale including legal and administrative costs fall under operation as identified in the Second Class Township Code. He offered this as clarification of his previous statements regarding the sewer sale exploration costs and how the word operation is commonly interpreted by the courts. Mr. McDonnell expressed that this issue should be further explored, and he believes legal fees should be charged to the General Fund. Ms. Schaffer requested an accounting treatment related to a sewer sale from the auditor. Mr. Shoemaker suggested that the Solicitor could explore situations where a sewer sale was terminated. Solicitor O'Keefe noted that he looked for and did not find any case law that specifically addressed the expenditure of sewer funds in a situation where the sewer sale was terminated, like the one in Willistown Township. Mr. Childers requested detail about charges related to preparation of the defense of the sewer sale; it was noted that this could be provided via a Right-to-Know Request.

Next Meeting

The next regular meeting of the Board of Supervisors will be held on August 21, 2023, 7:00 PM at the Township Building and on Zoom.

Adjournment

There being no further business before the Board, the meeting adjourned at 9:01 PM.

Respectfully submitted,

A handwritten signature in blue ink that reads "Shanna Lodge". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Shanna Lodge
Township Secretary