

# WARRINGTON TOWNSHIP BOARD OF SUPERVISORS

## MINUTES FOR DECEMBER 9, 2008

The regular meeting of the Warrington Township Board of Supervisors was held on December 9, 2008, 7:30 p.m. at the Township Building located at 852 Easton Road, Warrington, PA 18976. The members present were as follows:

### 1. ATTENDANCE:

Paul Plotnick, Chairman; Carol Butterworth, Vice Chairman; Glenn M. McKay, Secretary; Michael W. Lamond, Jr., Assistant Secretary; and Rebecca A. Kiefer, Member; Timothy J. Tieperman, Township Manager; Michael P. Clarke, Esq.; Township Solicitor; Thomas F. Zarko, Township Engineer; Michael Mrozinski, Director of Planning and Economic Development; Carolyn Hanel, Director of Administrative Services/Parks and Recreation; Richard Lesniak, Director of Fire, Inspection and Emergency Services; and Vivian Bell, Finance Director.

### 2. PLEDGE OF ALLEGIANCE

The meeting opened with a pledge to the flag.

3. EXECUTIVE SESSION: Mr. Clarke reported that at the conclusion of the last meeting on 12/3/08 the Board held an executive session to discuss personnel matters.

### 4. APPROVAL OF BILL LIST: 11/25/08 to 12/09/08

Motion – It was moved by Mrs. Butterworth, seconded by Mr. McKay that the Board of Supervisors voted to approve the bill list from 11/25/08 to 12/09/08 in the amount of \$584,835.16. This motion passed by a roll call vote of 5 yeas.

### 5. APPROVAL OF MINUTES

#### a) November 3, 2008

Motion – It was moved by Mr. McKay, seconded by Mrs. Kiefer, that the Board of Supervisors voted to approve the minutes of the November 3, 2008 meeting. This motion passed by a vote of 4-1. Mr. Lamond abstained.

#### b) November 11, 2008

Motion – It was moved by Mr. McKay, seconded by Mrs. Butterworth, that the Board of Supervisors voted to approve the minutes of the November 11, 2008 meeting. This motion passed by a vote of 4-1. Mrs. Kiefer abstained.

## 6. MINUTES FOR POSTING

### a) November 25, 2008

Motion – It was moved by Mr. McKay, seconded by Mrs. Kiefer, that the Board of Supervisors voted to post the minutes of the November 25, 2008 meeting. This motion passed by a vote of 5-0.

## 7. PUBLIC COMMENT

a) T-Mobile Cell Tower Site. Mr. Brian Martinelli, representative with T-Mobile wanted to discuss the Costner Drive cell tower site. He referenced the lease agreement, which indicates that the township is looking for a monthly rental of \$1,900 instead of the \$1,800 originally proposed by T-Mobile. He is here tonight to pick up the leases signed or take them not signed. He said the \$1,800 figure would bring the township \$1,027,000 over 30 years. The \$1,900 figure would bring the township \$1,084,000. He said our average rent is \$1,625 per month and the average height of our structures is 100' and we're at 50' in the township and that's the reason T-Mobile can't go over the \$1,800 per month rental figure.

Mr. Clarke said the Board instructed him several weeks ago that the \$1,800 to be increased 3% yearly over a five –year period was unacceptable and that information was communicated to Mr. Martinelli.

b) Flashing Light at Folly Road. Mrs. Mildred Laing, who resides at 767 S. Settlers Circle asked if the township was aware that the flashing lights at Folly Road, where the crosswalk is, have not been working for several weeks. Mr. Zarko thanked her for reporting this and said he would take care of the matter.

## 8. PUBLIC HEARING:

### a) Ordinance enacting Part 6 (Mercantile and Business Privilege Tax) under Chapter 24 (Taxation Special.)

Motion – It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors approved opening the public hearing for an ordinance enacting Part 6 (Mercantile and Business Privilege Tax) under Chapter 24 (Taxation Special). This motion passed by a vote of 5-0.

Mr. Clarke reported that this Ordinance has been property advertised. He said this is an Ordinance of adding to Chapter 24 Taxation adding a Mercantile and Business Privilege Tax setting the amount of the tax at \$2,600 per calendar year and providing an exemption for businesses that generate less than \$250,000 in gross receipts and that's the way the Ordinance was advertised. He said in subsequent budget meetings it has been discussed among the Board that the exemption would be set at a higher amount than that although the advertised ordinance said \$250,000.

Mr. Clarke said at the last Board meeting there was a discussion that the exemption would be set at \$750,000 so any business having gross receipts of less than \$750,000 would not be subject to the tax. He said that would have to be an amendment to the ordinance that was advertised.

A discussion followed with questions from both the Board and the general public in the audience. A number of people who have small businesses spoke about the unfairness of this tax and felt that the larger businesses; i.e., Wegman's, Target, Lowe's, etc. should be carrying the burden of the short fall.

Mrs. Butterworth feels that this tax is unfair to the businesses and we have to come up with other ways to get our short falls.

Mr. Clarke said the township believes that a flat rate business privilege tax that sets an exemption is constitutional and we have looked towards what was the local services tax and now it's the EMS Tax. He said this is a tax that is authorized by the State Legislature and has been found to be constitutional sets a threshold from which you are exempt. Under the EMS Tax if you make less than \$12,000 in a year you are not subject to the EMS Tax. We believe that in the absence of any definitive case law saying that a flat rate business privilege tax that sets an exemption is unconstitutional and in light of the EMS Tax, which has found to be constitutional we believe that this Ordinance as proposed tonight is lawful and constitutional.

Mrs. Kiefer commented that this Ordinance may be lawful and constitutional. Our economy right now is in a disastrous condition and said residents and businesses both are struggling to stay afloat just to make a living. As this Ordinance is written it is detrimental to most local businesses. She thinks it is unconscionable that local government cannot do a better job on reducing their expenditures just as everyone else has to do to survive rather than pass on their lack of planning by raising taxes once a gain on the little man. She feels very strongly about the fact that she thinks we should have done a better job at reducing, and she said it at the time, we can reduce things more and she doesn't think as this is written currently that this is a viable form of collection.

Motion – It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors approved closing the public hearing. This motion passed by a vote of 5-0.

Motion – It was moved by Mr. McKay, seconded by Mr. Lamond, that the Board of Supervisors approved adopting the Ordinance enacting Part 6 (Mercantile and Business Privilege Tax) under Chapter 24 (Taxation Special) as advertised with the following changes: 1) That the heading reflect an exemption level of \$1 million in gross receipts vs. \$15,000 as stated; 2) And that in Section 606 increase the exemption level from \$250,000 or less to \$1 million or less. This motion passed by a vote of 3-2. Mrs. Kiefer and Mrs. Butterworth voted no.

9. **Cell Tower at 1860 Street Road.** Mr. Clarke reported that the Board had previously reviewed a proposal to build a cell tower on property owned by the township on Street Road. He said we had gotten some proposals for the construction and at that time the Board asked that we explore other avenues. We have negotiated with SRP Telecom, LLC, which is a business operating out of Quakertown.

Mr. Clarke said they will construct the tower and they will pay the township rent for placing the tower on our property and they will also pay us a portion of the rent for any company that would co-locate on the tower. He said for the right to construct a tower they will pay us \$2,000 a month with an annual 3% increase and for the first four co-locators on the tower they will pay us \$1,000 a month, which will increase 3% a year on that lease. In addition, the township has expended money in the design of this tower and SRP will want to purchase the design of the tower from the township. He said we would be scheduling this for a conditional use hearing at one of our January 2009 meetings.

Motion – It was moved by Mr. McKay, seconded by Mrs. Butterworth, that the Board of Supervisors approved a resolution to enter into a cell tower terms and conditions with SRP Telecom, LLC at the rate of \$2,000 per month for the initial term of five years with a 3% annual increase and \$1,000 per month for up to four co-locator with a 3% annual increase. This motion passed by a vote of 5-0.

## 10. **MANAGER'S REPORT**

a) **Presentation of Proposed 2009 Final Operating and Capital Budget.** Mr. Tieperman gave a final presentation on the proposed 2009 Final Operating and Capital Budget and reviewed some of the changes from the preliminary budget that the Board adopted on 11/11/08. He said this operating budget

in the amount of \$19,012,010 represents combined appropriations for general, water/sewer, parks, debt service, and special purpose funds. He said since the preliminary budget's adoption the Board has conducted a number of special budget workshops to review more thoroughly all line item proposals and made further reductions bringing the figure down to \$18,202,434.

Mr. Tieperman reported that the Board also passed a preliminary capital budget in the amount of \$8,949,904, which represents combined appropriations for general capital, water/sewer capital, parks and recreation capital, streets and roads, bonds and minor capital accounts.

Mr. Tieperman said the reductions between the preliminary and final budget amounts to \$850,000. He said the current mill levy is at 1 mill and the impact of the mill levy on this budget is an additional 2.6 mills to balance the General Fund.

Mr. Tieperman said the 2008 General Fund Budget is representing an actual decrease over our current budget of about 1 ¼%. He said what we're proposing this year is 1 ¼% less than what was approved in 2008.

Mr. McKay said he doesn't believe, with the way the economy is, and doesn't believe that the cost of living adjustment that was produced in October is still an accurate indication of what the cost of living adjustment should be because of the significant decrease in the energy cost of that period of time. He said energy is a large contributing line item to the cost of living adjustment formula. Based upon that he stated that there should be no increases in the salaries of existing employees in the 2009 Budget. He recommended that we freeze the salaries and reduce the expenditure levels of the present non-uniform employees including the water and sewer department.

The general consensus for the General Fund Budget is 1) Reducing the General Fund Budget by eliminating the Public Works Director position, whose is shared between the Water and Sewer Department and the General Fund roughly saving \$60,000 in salaries; 2) Allowing for professional services to fill the gap of \$20,000 in the General Fund; 3) Not going with standard average cost of living salaries increase but we're flat lining that; 5) Allowing \$18,000 for merit increases; and 6) Take \$10,000 out of reserve so we can reduce the Business Privilege Tax to \$300,000.

## **NEW BUSINESS (ACTION/DISCUSSION ITEMS):**

### **11. Consider action to approve the 2009 Final Operating and Capital Budget.**

Motion – It was moved by Mr. McKay, seconded by Mr. Lamond, that the Board of Supervisors approved the 2009 Final Operating and Capital Budgets as amended. This motion passed by a vote of 4-1. Mrs. Kiefer voted no.

Motion - It was moved by Mr. McKay, seconded by Mr. Lamond, that the Board of Supervisors adopted a revised mill levy schedule in order to fund the approved 2009 Budget, which includes a 2.6 mill adjustment to the General Fund and a .5 mill adjustment to the Debt Services Fund and the township manager is authorized to make any additional additions, deletions or corrections based on additional budgetary deliberations as discussed at the final budget meeting on 12/9/08. This motion passed by a vote of 4-1. Mrs. Kiefer voted no.

**12. Consider action to approved proposed school flashing device at Stuckert Road, in accordance to an approved PennDOT Application filed by the Central Bucks School District.** Mr. Zarko reported that this was something that the Board required as a condition of school flashing device at Tamanend Middle School. He said the school district is going to be paying for this device and they have

put together an application but the township is going to own the signal so the township would have to authorize the submission of the application.

Motion – It was moved by Mrs. Butterworth, seconded by Mrs. Kiefer, that the Board of Supervisors approved the proposed school flashing device at Stuckert Road, in accordance to an approved PennDOT Application filed by the Central Bucks School District. This motion passed by a vote of 5-0.

13. **Consider motion advertising and new look of the township newsletter.** Ms. Gay Currie, the new Communications Officer, reviewed the proposed newsletter design for an 8-page newsletter. Mr. McKay said he would like to see the newsletter go to 12 pages venue because there is a lot of information that the residents can use that is of interest and educational and we presently don't have the room to print in the current newsletter. He said if the advertising can support a 12-page edition he said it is to our benefit and the township's benefit together. As Communications liaison he had given a recommendation to Ms. Currie to look at goal of 1 ¼ pages of advertising for a 4-page edition.

Motion – It was moved by Mr. McKay, seconded by Mrs. Butterworth, that the Board of Supervisors approved the inclusion of advertising and the new look of the township newsletter. This motion passed by a vote of 5-0.

14. **Consider adoption of Resolution authorizing township manager to enter into a tax collection agreement with Berkheimer Associates for the collection of a business privilege tax.**

Motion – It was moved by Mr. McKay, seconded by Mr. Lamond, that the Board of Supervisors tabled the adoption of Resolution authorizing township manager to enter into a tax collection agreement with Berkheimer Associates for the collection of a business privilege tax until the January 5, 2009 meeting.

15. **Motion to approved grant application for the Smart Transportation Grant – Eureka Village Study.** Mr. Mrozinski reported that we are applying for a grant reimbursement for the Eureka Village Study through PennDOT. He is looking for a letter of support from the Board.

Motion – It was moved by Mrs. Butterworth, seconded by Mr. Lamond, that the Board of Supervisors approve the grant application for the Smart Transportation Grant – Eureka Village Study and have the township send a letter of support. This motion passed by a vote of 5-0.

#### **OLD BUSINESS (ACTION/DISCUSSION ITEMS):**

16. **To consider the following escrow releases:**

<b>Development Name</b>	<b>Release #</b>	<b>Amount</b>
Stone Manor Corporate Center, Phase I	12	\$ 92,877.58
Heritage Center at Warrington	9	\$ 155,891.00
175 Titus Partners	10	\$ 5,841.19

Motion - It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors approved the escrow release for Stone Manor Corporate Center, Phase I, Release #12 in the amount of \$92,877.58. This motion passed by a vote of 5-0.

Motion - It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors approved the escrow release for Heritage Center at Warrington, Release #91 in the amount of \$155,891.00. This motion passed by a vote of 5-0.

Motion - It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors approved the escrow release for 175 Titus Partners, Release #10 in the amount of \$ 5,841.19. This motion passed by a vote of 5-0.

17. **To consider the following extension requests:**

a) **Paul Valley Town Center**

Motion – It was moved by Mrs. Butterworth, seconded by Mr. Lamond, that the Board of Supervisors approved the extension request for Paul Valley Town Center until 12/4/09. This motion passed by a vote of 5-0.

b) **Valley Square, Phase I**

Motion – It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors approved the extension request for Valley Square, Phase I until 3/21/09. This motion passed by a vote of 5-0.

c) **Sequoia Supply**

Motion – It was moved by Mrs. Butterworth, seconded by Mr. Lamond, that the Board approved the extension request for Sequoia Supply until 12/09/09. This motion passed by a vote of 5-0.

18. **To consider the following dedication requests:**

a) **Warrington Ridge**

Motion – It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors approved the dedication of open space area D for Warrington Ridge. This motion passed by a vote of 5-0.

b) **Retail at Warrington (BJ's)**

Motion – It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors approved the dedication of water and sewer improvements and easement documents for Retail at Warrington (BJ's). This motion passed by a vote of 5-0.

c) **Whisper Ridge South**

Motion – It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors approved the dedication of roadway and public improvements for Whisper Ridge South. This motion passed by a vote of 5-0.

**CONSENT AGENDA:**

19. **Motion to approve Resolution enacting the new Right to Know Law effective January 1, 2009.**

Motion – It was moved by Mr. McKay, seconded by Mrs. Kiefer, that the Board of Supervisors approved a resolution enacting the new Right to Know Law effective January 1, 2009. This motion passed by a vote of 5-0.

20. **Equestrian Center**. Mr. McKay reported on the letter that he sent to the Board on the Equestrian Center. He said the Equestrian Center wants to create offices and wanted the Board's consensus to approve the concept of the project so that they can move forward. The consensus of the Board is that they are fine with the concept.

21. **ADJOURNMENT**

Motion – It was moved by Mrs. Butterworth, seconded by Mr. McKay, that the Board of Supervisors voted to adjourn the meeting at 12:20 a.m. This motion passed by a vote of 5-0.



Timothy J. Nieperman  
Township Manager

2/2/09

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Date