



## WARRINGTON TOWNSHIP BOARD OF SUPERVISORS MINUTES FOR SEPTEMBER 10, 2013

The regular meeting of the Warrington Township Board of Supervisors was held on September 10, 2013, 7:30 p.m., at the Township Building located at 852 Easton Road, Warrington, PA 18976. The members present were as follows:

### **ATTENDANCE:**

Gerald B. Anderson, Chairperson; John R. Paul, Vice Chairperson; Marianne Achenbach, Secretary/Treasurer; Matthew W. Hallowell, Sr., and Shirley A. Yannich, members. Staff present was Timothy J. Tieperman, Township Manager; William R. Casey, Esq., Township Solicitor; Thomas A. Gockowski, Township Engineer; Barry Luber, Chief Financial Officer and Barbara Livrone, Executive Assistant to the Township Manager.

### **MOMENT OF SILENCE**

Mr. Anderson asked for a moment of silence.

### **PLEDGE OF ALLEGIANCE**

The meeting opened with a pledge to the flag.

### **EXECUTIVE SESSION REPORT**

Mr. Anderson reported there was no executive session held.

### **APPROVAL OF BILL LIST:**

1. **August 27, 2013 – September 10, 2013**      **\$682,297.89**

Mrs. Achenbach motioned, seconded by Mr. Paul, to approve the bill list from August 27, 2013 through September 10, 2013 totaling \$682,297.89. The motion passed unanimously.

### **APPROVAL OF MINUTES:**

2. **August 13, 2013**

Mr. Paul motioned, seconded by Mrs. Achenbach, to approve the August 13, 2013 Meeting Minutes. The motion passed unanimously.

### **MINUTES FOR POSTING:**

3. **August 27, 2013**

Mr. Paul motioned, seconded by Mr. Hallowell, to approve the posting of the August 27, 2013 Meeting Minutes with one noted correction by Mrs. Achenbach. The motion passed unanimously.

**PUBLIC COMMENT:**

There was no public comment.

Mr. Anderson closed the meeting for a public hearing on a liquor license transfer at 7:35 PM. This hearing was reconvened from August 27, 2013.

**PUBLIC HEARING:****4. Consider request by Carmel Café and Wine Bar, LLC. for an Intermunicipal Transfer of Restaurant Liquor License No. R-18085.**

Mr. Mark Kozar, Attorney from the Law Offices of Flaherty and O'Hara and Mr. John Ross, Joint Venture Partner from Carmel Café and Wine Bar, LLC were sworn in. Mr. Kozar testified that the proposed liquor license transfer comes from J.C. Blueberry, Inc., 1715 S. Easton Road, Doylestown, PA to Carmel Café and Wine Bar, LLC, which will be located at the Shops at Valley Square in Warrington.

There being no further comment, Mr. Paul motioned to approve the request by Carmel Café and Wine Bar, LLC for an Intermunicipal Transfer of Restaurant Liquor License No. R-18085, seconded by Mrs. Achenbach. All Board members voted unanimously to approve the liquor license transfer. Mr. Anderson noted that Carmel Café and Wine Bar, LLC must still apply and obtain approval from the Pennsylvania Liquor Control Board. (*See Attachment 1*)

Mr. Paul motioned to close the public hearing at 7:50 PM, seconded by Mr. Hallowell.

**OLD BUSINESS:****5. Review and comment on Ordinance draft to improve the enforcement of non-traffic violations in Warrington Township.**

The Board discussed the procedures for a new ordinance to improve the enforcement of non-traffic violations in Warrington Township. It was noted to add the wording of "sworn" in front of public official and to include public roads to vehicular parking.

Mr. Paul motioned, seconded by Mr. Hallowell, to advertise an Ordinance after a further legal review by the Township Solicitor. The motion passed unanimously.

**NEW BUSINESS (ACTION/DISCUSSION ITEMS):****6. Consider adoption of Ordinance # 2013-O-09 amending Chapter 27 (Zoning) establishing maximum impervious coverage requirements for R-1-C District.**

The Board unanimously agreed to table the adoption of Ordinance # 2013-O-09 amending Chapter 27 (Zoning) establishing impervious coverage requirements for R-1-C District pending further review and opinion from the Warrington Township Planning Commission.

**7. Consider approval of Valley View Developers Agreement (formerly the West Tract)**

Due to the Valley View Developers agreement not being submitted, the Board unanimously agreed to table this agreement until a future meeting.

**8. MANAGER'S REPORT:****a. 2014 Preliminary Operating Budget Update**

Mr. Tieperman presented a brief overview of the 2014 Preliminary Operating Budget noting the preliminary budget is slated for presentation at the September 17, 2013 Workshop. *(See Attachment # 2)*

**b. Approval of Acknowledgement and Consent for 18 TDR's for the Illg Tract**

Mr. Casey stated the TDR's purchased by Toll Brothers will be retired and used for the Illg tract. This is stipulated settlement set by the Court in 2009. *(See Attachment # 3)*

Eric Thompson, 291 Folly Road commented that he filed a records request to obtain a copy of this Order.

Mr. Paul motioned, seconded by Mr. Hallowell to approve the Acknowledgement and Consent for 18 TDR's for the Illg Tract. The motion passed unanimously.

**9. CHAIRMAN'S REPORT****a. Review 09.17.13 Workshop Items**

A Workshop meeting was advertised on September 10, 2013 for the supervisors to begin deliberations on the 2014 Preliminary Budget and review 2013-2019 revenue and expenditure projections. This workshop has been scheduled for September 17, 2013.

Mr. Anderson made reference to a September 4<sup>th</sup> letter from the County, stating a mandate for the purchase of a low band radio system will cost Bucks County \$40 million dollars.

**b. Loop Road Progress Report**

The Board discussed the Loop Road Ordinance, which will encourage the creation of an alternative road network to alleviate congestion at the intersection of Easton Road and Bristol Road. The proposed ordinance also allows for certain uses within the overlay district and sets dimensional and buffering standards.

Wayne Bullock (1525 Turk Road) spoke in favor of the Loop Road.

Fred Gaines (200 Beech Boulevard) is in favor of the Loop Road but not the draft Ordinance, as written.

Mrs. Yannich requested to incorporate Eureka Village section of the township and not focus on one development.

Mr. Paul motioned, seconded by Mr. Hallowell, to approve advertisement of the Loop Road Ordinance.

**c. Route 611 Drainage Issue**

Mr. Anderson directed the township engineer to send a letter from the township to PennDOT addressing the safety issues relating to the excessive water draining onto Route 611.

**10. ENGINEER'S REPORT****a. Drainage Updates**

In addition to the Route 611 drainage issue, Mr. Gockowski will follow up with PennDOT relating to the Folly Road issue.

**11. SOLICITOR'S REPORT****a. Malcolm's**

Mr. Casey held a deposition with the engineers, received the transcript and will file a motion on September 13<sup>th</sup> to overturn the objections and move forward.

**b. Meridian**

Mr. Casey reported that he has not received a written response from the bank. However, he spoke to Lawndale Construction Company who has an agreement to purchase Meridian. Before a meeting is scheduled, Mr. Anderson requested researching the company for their due diligence.

**c. Lankford and Board of View**

Mr. Casey stated that Lankford and the Board of View have requested to be heard in October. A date is expected to be filed shortly.

**d. PennDOT Condemnation**

Mr. Casey said he is waiting for the County Judge to give a new Board of Review.

**12. ESCROW AND MAINTENANCE BOND RELEASES:****a. Pleasantville Church Maintenance Bond Release**

Mr. Anderson motioned, seconded by Mr. Paul, to approve the Maintenance Bond Release for the Pleasantville Church. The motion passed unanimously.

**13. EXTENSION REQUESTS: None****14. DEDICATION REQUESTS: None****SUPERVISOR COMMENTS:**

Mr. Paul suggested viewing the Warrington Township sign and CVS clock located at the eastbound lane on County Line Road. CVS will be opened in October.

Mr. Paul, along with Barry Luber, attended an equipment sale at the Newtown Swim Club which is closing. The items for sale will be presented at the September 17, 2013 Workshop for consideration by the Board.

Mr. Paul reported that he received a phone call from Mike Butler and Vito Braccia who are working at the Upper Nike Park (Twin Oaks) fields. A change in grading has to be resolved before these fields are used exclusively for soccer and lacrosse.

Mr. Anderson reported that Earthborne Trucks and Equipment Company from Warrington were entertaining their "Dancing Diggers" at the Grange Fair. He suggested that the "Dancing Diggers" should be part of Warrington Community Day. This will be a very unique show and will draw large crowds.

Mr. Achenbach questioned the opening of Champps. The Board believes there is a delay with their bank. Mr. Anderson asked the township manager to research and report back.

## **ADJOURNMENT**

Mr. Paul motioned, seconded by Mrs. Yannich, to adjourn the meeting at 9:05 p.m. The motion passed unanimously.

Respectfully Submitted By:



---

Timothy J. Tieperman, Township Manager

Attachment "1"



***RESOLUTION 2013-R- 39***

***INTER-MUNICIPAL LIQUOR LICENSE TRANSFER***

***CARMEL CAFÉ & WINE BAR***

**WHEREAS**, the Warrington Township Board of Supervisors is authorized, pursuant to Act 141 of 2000 to approve the inter-municipal transfer of liquor licenses; and

**WHEREAS**, applicant CARMEL CAFÉ & WINE BAR, LLC has requested that the Board of Supervisors approve the transfer of License R-18085 from C.C. Blue Berry, Inc., Doylestown Township, Bucks County, to a location known as CARMEL CAFÉ & WINE BAR at The Shoppes at Valley Square, Route 611 at Street Road, Warrington, Warrington Township, Pennsylvania.

**WHEREAS**, a public hearing was held on the applicant's request on August 27, 2013 and September 10, 2013 pursuant to advertisement and notice; and

**WHEREAS**, at the September 10, 2013 hearing the Warrington Township Board of Supervisors determined that the applicant is the lessee of the aforesaid The Shoppes at Valley Square location, where it will operate a restaurant and bar with a liquor license if permitted by the Pennsylvania Liquor License Control Board; and

**WHEREAS**, after considering all of the testimony and evidence presented at the hearing, the Board found that the requested transfer will not adversely affect the welfare, health, peace or morals of Warrington Township or its residents.

**NOW, THEREFORE**, upon motion and by unanimous vote, it is hereby **RESOLVED** by the Board of Supervisors, as follows:

The Warrington Township Board of Supervisors, Bucks County, Pennsylvania hereby approves the transfer of the aforesaid liquor license R-18085 by the Applicant to CARMEL CAFÉ & WINE BAR at The Shoppes at Valley Square, Route 611 at Street Road, Warrington, Warrington Township, Pennsylvania.

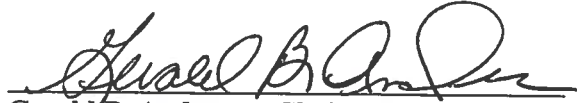
**BE IT FURTHER RESOLVED** that the liquor license transfer is subject to approval by the Pennsylvania Liquor Control Board.

RESOLVED this 10<sup>th</sup> day of September, 2013.

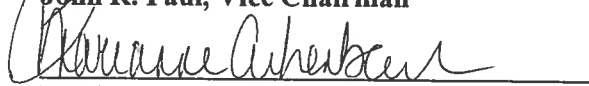
**BOARD OF SUPERVISORS OF WARRINGTON TOWNSHIP**


ATTEST:

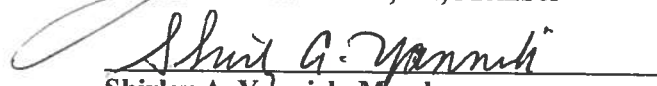
  
\_\_\_\_\_  
Timothy J. Tieperman  
Township Manager

  
\_\_\_\_\_  
Gerald B. Anderson, Chairperson

  
\_\_\_\_\_  
John R. Paul, Vice Chairman

  
\_\_\_\_\_  
Marianne Achenbach, Secretary-Treasurer

  
\_\_\_\_\_  
Matthew W. Hallowell, Sr., Member

  
\_\_\_\_\_  
Shirley A. Yannich, Member

## Attachment "2"

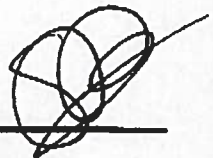
### WARRINGTON TOWNSHIP 2013 PROPOSED BUDGET ALL FUNDS SUMMARY

<u>Operating And Capital Funds</u>	<u>2013 Beginning Fund Balances</u>	<u>2013 Estimated Revenues</u>	<u>2013 Estimated Expenditures</u>	<u>2013 Ending Fund Balance</u>	<u>Proposed 2014 Revenues</u>	<u>Proposed 2014 Expenditures</u>	<u>2014 Ending Balances</u>
General	1,770,768	11,272,152	11,209,821	1,833,099	12,513,700	12,844,997	1,501,802
Water and Sewer	2,216,594	7,174,144	7,660,953	1,729,785	7,216,150	7,238,536	1,707,399
Open Space	0	2,164,942	132,000	2,032,942	839,558	1,500,000	1,372,500
Capital Bonds - Roads Fund	669,092	1,500	350,000	320,592	500	321,092	0
Capital Projects (2014 Bonds)	0	0	0	0	4,001,500	1,750,000	2,251,500
Capital Reserve (2008 Bonds)	1,984,633	1,300	1,985,933	0		0	0
Capital Improvement Fund	0	400,100	0	400,100	400	295,000	105,500
Debt Service	17,831	1,660,709	1,543,615	134,925	2,181,952	1,967,778	349,099
Highway Aid Fund	433,523	473,191	397,509	509,205	471,500	849,409	131,296
Internal Service Fund	226,971	340,810	410,379	157,402	360,000	394,040	123,362
<b>TOTALS</b>	<b>\$ 7,319,412</b>	<b>\$ 23,488,848</b>	<b>\$ 23,690,210</b>	<b>\$ 7,118,050</b>	<b>\$ 27,585,260</b>	<b>\$27,160,852</b>	<b>\$ 7,542,458</b>



*HS*

John A. VanLuvanec, Esquire  
Attorney I.D. #15974  
Eastburn and Gray, P.C.  
PO Box 1389  
Doylestown, PA 18901  
215-345-7000  
215-345-3528 - fax



**IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA  
CIVIL ACTION**

**RONALD S. MINTZ, BERNARD K.  
CILIBERTO and C&M INVESTOR  
PARTNERSHIP II**

**No. 2009-10340**

**v.**

**TOWNSHIP OF WARRINGTON**

**ORDER**

AND NOW, this *21<sup>st</sup>* day of *Dec.*, 2009, upon consideration of the within Motion, it is hereby ORDERED AND DECREED that the Stipulation and Settlement Agreement by and between Plaintiffs Ronald S. Mintz, Bernard K. Ciliberto and C&M Investor Partnership II and Defendant Township of Warrington be and hereby is approved and entered as an Order of this Court in full and final settlement of all issues raised in the above-captioned case, as described in the "Background" section of the Stipulation and Settlement Agreement. This Court shall retain jurisdiction over this matter for purposes of enforcing any disputes that may arise between the parties in the implementation of the provisions of the Stipulation and Settlement Agreement.

BY THE COURT

*Clyde W. Waite*  
Clyde W. Waite, Judge J.

**N.B. - It is your responsibility  
to notify all interested parties  
of the above action.**

  
Case Number: 2009-10340  
Receipt: 2115884 Judge: 31  
Code: 145 Filing: 8753604  
Patricia Bachtie - Bucks Co Prothonotary  
809 11/24/2009 3:05:58 PM

**IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA  
CIVIL ACTION**

<b>RONALD S. MINTZ, BERNARD K. CILIBERTO and C&amp;M INVESTOR PARTNERSHIP II</b>	:	<b>No. 2009-10340</b>
	:	
	:	
	:	
<b>v.</b>	:	
	:	
<b>TOWNSHIP OF WARRINGTON</b>	:	

**STIPULATION AND SETTLEMENT AGREEMENT**

This Stipulation and Settlement Agreement is made and executed as of July 1, 2009 by and between Plaintiffs Ronald S. Mintz, Bernard K. Ciliberto and C&M Investor Partnership II (collectively "C&M Plaintiffs"), by and through their attorneys, Eastburn and Gray, P.C., and the Township of Warrington ("Township"), by and through its solicitors, Rudolph, Pizzo & Clarke.

**BACKGROUND**

The C&M Plaintiffs are the owners of a total of 182 transferable development rights ("TDRs"). The TDRs were created by the Board of Supervisors ("Board") of the Township pursuant to the authority contained in Article VI of the Pennsylvania Municipalities Planning Code, specifically Section 603(c)(2.2) and Section 619.1.

Of the 182 TDRs, 107 of those TDRs may be used in residential and/or non-residential zoning districts. As of the effective date of the Stipulation, the remaining 75 TDRs may only be used in non-residential zoning districts. The 107

TDRs are sometimes hereinafter referred to as "Residential TDRs" and the 75 TDRs are sometimes hereinafter referred to as "Commercial TDRs."

Use of the Residential TDRs and Commercial TDRs is governed by the provisions of a certain Stipulation and Agreement dated February 18, 1997 ("1997 Stipulation") entered into between Warrington Township ("Township") and property owners who had filed substantive challenges to the validity of the Warrington Township Zoning Ordinance .

The provisions of the Stipulation and Agreement called for the creation of transferable development rights. Those transferable development rights were subsequently created by ordinances adopted by the Board, including Ordinance Nos. 97-0-6 and 98-0-15, which ordinances amended the Warrington Township Zoning Ordinance ("Zoning Ordinance").

As a result of a series of conveyances, the TDRs created by Ordinance Nos. 97-0-6 and 98-0-15 have been transferred to and are owned by the C&M Plaintiffs.

On May 9, 2006, C&M Plaintiffs entered into two agreements with The Cutler Group, Inc. ("Cutler") pursuant to the terms of which C&M Plaintiffs committed to sell and convey to Cutler that number of TDRs required in order for Cutler to develop residential subdivisions on three tracts of land in the RA zoning district ("RA District"). The subdivisions are known as the Meehan-Lacey Tract, Warrington Meadows - Phase I ("Blichasz Tract") and the Illg Tract subdivision (collectively "Cutler Subdivisions"). Cutler filed subdivision plans for each of the Cutler Subdivisions with Warrington Township in 2006. Each plan proposed the

development of a use created by the 1997 Stipulation known as a "Subdivision with Transferable Development Rights". During discussions with the Township, a dispute arose over the methodology that was to be utilized to determine the number of TDRs that would be required for each of the Cutler Subdivisions under the provisions of the 1997 Stipulation.

The provisions of the 1997 Stipulation were implemented, in part, by the enactment of Ordinance No. 97-0-6 on July 15, 1997. As of that date, the regulations contained in the Warrington Township Zoning Ordinance governing development in the R-A Residential Agricultural district did not permit any residential use as a permitted use. A "single-family detached dwelling" and a "cluster single-family detached dwelling" were both uses permitted as conditional uses.

On or about June 25, 2007, Robert J. Sugarman, then Township solicitor, advised Cutler's counsel that the number of TDRs that would be required for each of the Cutler Subdivisions would be based on the number of three-acre lots that could be achieved under the provisions of the Warrington Township Zoning Ordinance rather than the number of lots that could be developed under the single-family cluster alternative.

By letter dated February 6, 2008, counsel to C&M Plaintiffs advised the Township solicitor that the correct method of determining the number of TDRs required for a "Subdivision with Transferable Development Rights" in the R-A district should be based on the number of lots that could alternatively be developed in a "cluster single-family detached dwelling subdivision" at a density

of 0.65 dwelling units per acre. Counsel for C&M Plaintiffs further advised the Township Solicitor that unless this matter was resolved, both C&M Plaintiffs and Cutler would sustain millions of dollars in damages and litigation would be the only remedy. A copy of the February 6, 2008 letter, without attachments, is attached hereto, marked Exhibit "A" and made part hereof.

C&M Plaintiffs commenced the above-captioned action by filing a writ of summons on September 29, 2009.

To avoid protracted litigation, C&M Plaintiffs and the Township engaged in discussions with the intent of reaching an agreement on the manner in which the number of TDRs required for a "Subdivision of Transferable Development Rights" in the RA District would be determined. This Stipulation and Settlement Agreement ("2009 Stipulation") is entered into to confirm the agreement of the parties.

#### **TERMS OF AGREEMENT**

1. Township and C&M Plaintiffs agree that as of July 1, 2009 the C&M Plaintiffs own 107 Residential TDRs and 75 Commercial TDRs. Township acknowledges and agrees that the use of the C&M Plaintiffs TDRs by C&M Plaintiffs, their grantees, heirs, successors and assigns, shall be governed by and in accordance with the provisions of this 2009 Stipulation, notwithstanding any amendments that may be made in the future to the Warrington Township Zoning Ordinance, Subdivision and Land Development Ordinance, and other Township ordinances and resolutions.

2. The methodology to determine the number of TDRs that will be required for any "Subdivision with Transferable Development Rights" in the RA District shall be as follows:

A. Step 1 - Multiply the gross acreage of the property that is proposed to be subdivided by 0.33 (the maximum gross density for a subdivision of lots with a minimum lot size of 3 acres)

B. Step 2 - Multiply the gross acreage of the property that is proposed to be subdivided by 0.65 (the maximum density for a single-family cluster subdivision)

C. Step 3 - Add the numbers resulting from the application of Step 1 and Step 2 and divide by 2. The resulting number is hereinafter referred to as the "Base Density." For example, assume that a 40-acre tract of land in the RA District is proposed to be developed as a "Subdivision with Transferable Development Rights". The Base Density would be calculated as follows:  $\text{Base Density} = [(40 \times 0.33) + (40 \times 0.65)] \div 2$ .

D. Step 4 - Subtract the Base Density from the total number of dwelling units for which final plan approval is received for a "Subdivision with Transferable Development Rights" utilizing the applicable development criteria set forth in either paragraph 3 for the Cutler Subdivisions or paragraph 4 for any other Subdivision with Transferable Development Rights. The difference is hereinafter referred to as "Required TDRs."

E. Step 5 - Determine the number of Residential and Commercial TDRs necessary to equal the Required TDRs. For purposes of



this calculation, 1.5 Commercial TDRs shall be deemed to be equal to 1 Residential TDR. For example, if the number of Required TDRs for a Subdivision with Transferable Development Rights is 100, the applicant could satisfy the requirement by utilizing 100 Residential TDRs or by using 50 Residential TDRs and 75 Commercial TDRs.

3. The zoning, subdivision and development criteria for the Cutler Subdivisions will be those set forth in the 1997 Stipulation for a "Subdivision with Transferable Development Rights."

4. The development criteria for any other plan for a "Subdivision with Transferable Development Rights" that may be filed for any other property or properties in the RA District after July 1, 2009 will be the development criteria applicable to such use as set forth in the Warrington Township Zoning Ordinance and Subdivision and Land Development Ordinance and other applicable Township ordinances, in effect on and as amended to January 1, 2008.

5. In consideration of Township's agreement to enter into this Stipulation, upon approval of this Stipulation and Settlement Agreement as a Court Order and the expiration of any applicable appeal periods, C&M Plaintiffs will be deemed to have released the Township from any claims that any of the C&M Plaintiffs may have against the Township for damages resulting from the Township's delay in processing the Cutler Subdivisions, including any claim for damages resulting from the delay in C&M Plaintiffs receiving payment from Cutler for the TDRs that are subject to their agreements with Cutler.

6. Upon full execution of this Stipulation and Settlement Agreement, C&M Plaintiffs and Township agree that a motion will be filed with the Court of Common Pleas of Bucks County requesting that the Court enter an Order approving this Stipulation in full and final settlement of the issues between the Township and C&M Plaintiffs giving rise to this litigation. The proposed form of Order shall also provide that the Court will retain jurisdiction for purposes of resolving any disputes that may arise between the parties in the implementation of the provisions of this 2009 Stipulation.

EASTBURN AND GRAY, P.C.

By: 

John A. VanLuvanee,  
Attorneys for Ronald S. Mintz,  
Bernard K. Ciliberto and  
C&M Investor Partnership, II

RUDOLPH, PIZZO & CLARKE, LLC

By: 

Michael P. Clarke  
Solicitors to Warrington Township