

TOWNSHIP OF WASHINGTON, WARREN COUNTY

Regular Minutes
April 14, 2008

The regular meeting of the Township Committee was held this date at the Municipal/Police Building located on Little Philadelphia Road. The meeting was called to order at 7:35 p.m. by Mayor David Dempski

SUNSHINE LAW COMPLIANCE - The Mayor noted that this meeting was being held in compliance with the Open Public Meetings Law of 1975 in as much as a notice had been published in the Star Gazette and transmitted to the Express Times, posted at the municipal building and a copy is on file in the Clerk's Office.

ROLL CALL: Dempski, present; Elbassiouny, present; Horensky, present; Mueller, present and Strunk, present. Attorney Katrina Campbell, from the office of Michael Lavery, Township Attorney, Mary Ann O'Neil, Township Clerk, Peter de Boer, Certified Public Works Manager and Chief James Mc Donald were also present.

SALUTE TO FLAG

APPROVAL OF MINUTES

The Mayor asked for a motion to approve the Executive Session Minutes from January 15, 2008, Session II. Horensky made a motion to approve Executive Session Minutes from January 15, 2008, Elbassiouny seconded. Strunk asked that minutes, Item III, regarding the police chief's concerns, regarding his information on gathering of police activities, he asked that a verbatim transcript be made of these minutes and entered into the minutes. He asked that these minutes be put into regular minutes. The Mayor said this could not be done due to the privacy concerns, it is still Executive Session Material. The Mayor asked that the motion be reflected that Item III be held and be done verbatim. Horensky made a motion that the Executive Session Minutes of January 15, 2008 be approved, except Item III, which will be done verbatim, Elbassiouny seconded.

Chief Mc Donald asked that Items I and II also be verbatim. Campbell said they do not have to be verbatim if the Committee does not want to do it this way. Campbell said that Strunk's original request was because he believed he qualified at the time as an employee and therefore should have been rice noticed and the meeting could have been public. Campbell said that just because you receive a W2 does not qualify you as employee of the Township, so therefore, he did not have to be rice noticed. The meeting, even if he wanted it to be public, was an executive session. Strunk said Item I and II have nothing to do with this. The Mayor advised the Chief that the letters should also be part of the minutes.

ROLL CALL: Horensky, yes; Elbassiouny, yes; Mueller, yes; Strunk, yes; Dempski, yes.

Horensky made a motion to approve the Workshop Meeting Minutes of March 6, 2008, Mueller seconded. All were in favor.

Horensky made a motion to approve the Budget Meeting Minutes of March 15, 2008, Elbassiouny seconded. All were in favor.

Horensky made a motion to approve the Regular Meeting Minutes of March 18, 2008, Mueller seconded. All were in favor.

Horensky made a motion to approve the Executive Meeting Minutes of March 18, 2008, Elbassiouny seconded. All were in favor.

PROCLAMATION

The Mayor read a proclamation for Myasthenia Gravis, a neuro-muscular disease striking children and adults, affecting control of voluntary muscles and afflicting several hundred of our fellow New Jerseyans.

ORDINANCES

Horensky made a motion to open Ordinance 08-07, Ordinance of the Township of Washington, County of Warren, State of New Jersey, Amending and Supplementing Chapter 123, Section 123.2G(2) (m)to Require Service Stations Operating Twenty-Four (24) hours per day to obtain lighting approval in the HC and GC Zones to the public, Elbassiouny seconded. All were in favor. The Land Use Board found the ordinance consistent with the Master Plan. The Board clarified that existing operations wishing to convert to 24 hours per day must come to the Board with a lighting plan for conditional use approval. Frank Cregan, 62 Merlin Drive, said he assumed this does not change the earlier ordinance about one mile spacing. The Mayor said this was the 24 hour lighting ordinance. Cregan said the preceding ordinance had this wording into it and also the one mile spacing. The Mayor said only one section was being changed. Nobody else wished to be heard. Horensky made a motion to close the public hearing, Elbassiouny seconded. All were in favor. Elbassiouny made a motion to approve Ordinance 08-07 after public hearing and second reading, Horensky seconded.

ROLL CALL: Elbassiouny, yes; Horensky, yes; Mueller, yes; Strunk, yes; Dempski, yes.

The Mayor said, on Ordinance 08-08 Ordinance of the Township of Washington, County of Warren, State of New

Jersey, Amending and Supplementing Chapter 123, Section 123.2 to Amend the Definition of Service Stations to Permit Service Stations with Convenience Stores as a conditional use in the HC and GC Zones, the Land Use Board found the language in Section 1, #1 seemed incompatible with the intent of the ordinance. To remove the inconsistency, the Board recommended eliminating the language after the word “restaurant” and just have restaurant. Campbell said this would be a major change, so the ordinance would have to be reintroduced with the change. Elbassiouny said, in the new ordinance, he wants it to be clear that there is no seating whatsoever, including stand up counters. He wants it clear in the ordinance. No action was taken on Ordinance 08-08 and Ordinance died and will be replaced by 08-10 for first reading. Frank Cregan asked if he could make public comments, the Mayor said the Ordinance died. He said he would save his comments until later in meeting.

Elbassiouny made a motion to approve, by title only, on first reading, Ordinance 08-10, Ordinance of the Township of Washington, County of Warren, State of New Jersey, Amending and Supplementing Chapter 123, Section 123-2 to Amend the Definition of Service Stations to permit Service Stations with Convenience Stores as a Conditional Use in the HC and GC Zones, Mueller seconded.

ROLL CALL: Elbassiouny, yes; Mueller, yes; Horensky, yes; Strunk, yes; Dempski, yes.
Public Hearing and Second Reading will be May 20, 2008.

Elbassiouny made a motion to open Ordinance 08-09, Ordinance of the Township of Washington, County of Warren, State of New Jersey, Amending and Supplementing Chapter 59 Titled “Construction Permits” of the Code of the Township of Washington to the public, Horensky seconded. All were in favor. Elbassiouny made a motion to close the public hearing, Mueller seconded. Strunk said he had comments, but it has always bothered him that after the Committee has comments, if the public still has comments they are closed to the opportunity to comment again. Strunk asked Campbell, can the Committee have their comments before the public hearing is closed, then give public opportunity to comment again, or do they have to close the public hearing before the Committee gives their comments. Campbell said this would be up to the Committee, but if someone wanted to raise a question, after the Committee, they could allow it. Elbassiouny said he would rather hear what the public says, because then they can address the issues that were raised.

Strunk said, for the record, he would like it stated that he would like to have the public’s comments done, because it would give better dialogue between residents and Committee. Elbassiouny said he felt this could create a back and forth issue. Elbassiouny said it should be at the discretion of the Mayor, to allow additional comments.

Strunk said he had comments on Ordinance 08-09 and asked Elbassiouny if this ordinance brings the Township in line with the State Fee Schedule, is the Township at the same Fee Schedule Elbassiouny said they will never be the same fee as the State. Elbassiouny said they are now average with other municipalities in this area. Strunk said he has had many people stop him on the street regarding the fees the Township charges and he felt the fees should be the same price as the State. One of the big thing that has come to his attention was the price per \$1,000. They could have a \$50,000- swimming pool, opposed to a \$500 stand up pool, and they are getting charged per \$1,000. This is a wide discrepancy in work being performed. He has difficulty with the price \$1,000. He does not feel it is fair to the people in the Township. The Mayor said the State has many different municipalities paying into one fund. The Township is sharing the costs with Mansfield. Elbassiouny said the State has many employees, the Township does not, but they are open one night a week. The Mayor said the level of service and level of responsibility is far greater and is worth paying a premium for this.

Strunk said the complaints he has received is that the Township is almost doubling the costs of what the fees had been with the State. Elbassiouny said they are not doubled. What they are doing now is a decrease by a percentage. They are there to serve the people, at the best price they can, at the best price. Strunk said he is concerned with the amount being paid that it is not cost effective with the amount of complaints they are getting. They still need to tweak it again and the \$1000 cost still bothers him. Elbassiouny made a motion to close the public hearing, Mueller seconded. All were in favor.

Mueller made a motion to approve, after public hearing and second reading, Ordinance 08-09, Elbassiouny seconded.

ROLL CALL: Mueller, yes; Elbassiouny, yes; Horensky, yes; Strunk, yes; Dempski, yes.

The Mayor said he wanted feed back on Ordinance 08-07. The Land Use Board is working very diligently to create a new check list. He asked, if they did a check list concept via ordinance and then do the actual check list via resolution, so if there were any changes to it could be done on a month to month basis, instead of having a bi-monthly cycle for an ordinance review. Campbell saw no problem with this.

The Mayor said he was going to put Ordinance 08-08 to a full review and then let it expire. He asked for a motion to open the public hearing on 08-08 Ordinance of the Township of Washington, County of Warren, State of New Jersey, Amending and Supplementing Chapter 123, Section 123.2 to Amend the Definition of Service Stations to Permit Service Stations with Convenience Stores as a conditional use in the HC and GC Zones. Strunk made a

motion to open Ordinance 08-08 to the public, Elbassiouny seconded. All were in favor.

Frank Cregan, 62 Merlin Drive, said he is sure that everybody understands where this language came from, it is from the resolution from Petro Plaza, now Sunoco about eat in facilities that were never enforced. Samir Elbassiouny's comment about making sure it can be enforced if they so choose to, they didn't choose to enforce it, for whatever reason. Elbassiouny said they did get a summons, Cregan said, yes today, Elbassiouny said Saturday.

Cregan said he brought this up to the Zoning Officer in December and he chose not to enforce it until now. The Mayor said this will be heard in Municipal Court. Cregan said they are already in the court for other violations. Cregan said he just wanted to keep it simple. He looked at 08-08 and just inserted, after the words "convenience stores" with no eat in facilities, which includes tables, chairs, counters and stand up counters. He would leave in the whole #1 on restaurants, so you have it covered that a convenience store, with no eat in facilities and leave in the restaurant, because a Dunkin Donuts can be affiliated with a convenience store. Dunkin Donuts is a restaurant, but a convenience store may not be. That is his point. Nobody else from the public wished to be heard.

Strunk made a motion to close the public hearing, Mueller seconded. All were in favor.

Dempski made a motion to approve Ordinance 08-08, Elbassiouny seconded.

ROLL CALL: Dempski, no; Elbassiouny, no; Horensky, no; Mueller, no; Strunk, no.

RESOLUTIONS

Horensky made a motion to approve Resolution 08-68 through and including 08-73, Strunk seconded.

ROLL CALL: Horensky, yes; Strunk, yes; Elbassiouny, yes; Mueller, yes; Dempski, yes.

08-68 Introduction of 2008 Budget

08-69 Resolution Registering Objections to the Highlands Final Draft Regional Master Plan

08-70 Resolution on Bill A1571/S467 - Grace's Law

08-71 Resolution Granting Municipalities with Pending Petitions a Waiver from NJAC 5:94-6.2(2)

08-72 Redemption of Tax Sale Certificate, Block 44, Lot 5

08-73 Self-Examination of Budget Resolution

REPORT FROM STAFF

Pete de Boer, Certified Public Works Manager, had no report.

Chief Mc Donald said they had a meeting with Nextel, there was some problem with the billing of the telephones. The CFO, for the past years, has been going through bills trying to straighten them out. This will no longer be a problem. Most of the men have switched over to a plan with unlimited minutes and there will be specific charge each month. The Township will only be responsible for \$25.00, the rest would be a payroll deduction for the exact amount each month. This will cover the DPW Department as well.

The Mayor said he would like to point out that there was a meeting recently held at another governing body and someone made a claim that the Township Police Force was spreading rumors about our intentions with the Mansfield Shared Court. He thought this was very unprofessional and undignified to do that to the department, because they were not doing that at all. Someone took a cheap shot. Right now, they are still considering and soon reviewing a proposal with Mansfield again. He appreciated Chief Mc Donald putting a stop to the rumors, they were unfounded and unprofessional to say the least.

PUBLIC QUESTIONS AND CONCERNS

Nobody from the public wished to be heard.

NEW BUSINESS

1. Barbara Davis, Morris Land Conservancy was not present. The Mayor said he had talked with the State. He did not believe some of the statements made in the letter from Morris Land Conservancy were 100% correct. He did not believe they would lose any potential farmland preservation efforts if they do not update the application. This is specifically targeting the PIG Application, which they did and exhausted all of the funds for that. He did not believe they would be exempt from doing another purchase if they wanted to and doing other easements The PIG Program, from his understanding, in-as-much as the Green Acres Trust is broke, there is no money available.

2. Recreation Commission Revisions to Park Ordinance - Darryl Detrick was present from Recreation Commission. There has been a lot of problems with Field Closed Signs being up and people play on the fields anyway. There is nothing the Police Department can do about this, because there is no ordinance with violations and fines. The DPW has requested an ordinance be put in place so there could be fines if people were playing on fields when the fields were closed. A proposed ordinance had been given to the Committee for review.

The Committee reviewed this. The Mayor said this was a good thing, but when it says Revocation of Park Privileges, could it be specified as an individual as opposed to a team. The group should not be punished for the coach.

Elbassiouny said he felt the fines and community service days were a little harsh. If somebody did not see the sign and were on the field just throwing the ball around, you would get \$100 fine. He did not think this was the

tone they were trying to set, it was more an organized group. Elbassiouny felt the ordinance should be directed toward a group of people and not an individual. A resident may be there and child runs on the field. Elbassiouny asked if this was to be geared more a group, sports team or one or two people. Detrick said it could be any of these. When the fields are closed, they are closed. Any damage done at that time will last through the season. It could be a group of high school kids on field playing frisbee or team, it applies to all. Detrick said, as long as the signs were posted, this ordinance would be in effect.

Horensky said he agreed with Elbassiouny in the sense, the first offense should send the message. Why not, just have community service. Elbassiouny said the first time should be a warning. Chief Mc Donald said it could be discretionary, without being selective. If a resident and child was present you could make them aware of the penalties. If there is a whole team there, they should be given a summons.

There was discussion about having the first time being a warning. Horensky asked how you would keep track of the offenses and warnings. Chief Mc Donald said another thing they have to be concerned about is having it in the statute that the first time is a warning, what if it a group that goes in and does considerable damage, you would not give a warning. Elbassiouny said it should be geared toward teams.

After discussion, the first offense was a fine up to \$100 and/or up to 30 days community service; second offense, fine up to \$250 and/or up to 30 days of community service; third offense a fine up to \$400 and/or up to 30 days of community service; fourth and each subsequent offense, a fine up to \$ 1,000 and up to 30 days of community service.

3. Letter from resident regarding code and construction fees - Campbell said it would not be read into minutes, but would be available to anyone requesting to read it. It was an e-mail from Bruce Wilson entitled Costs to Obtain Construction Permits.

4. Request from WTYA for meeting room - Elbassiouny made a motion to approve the WTYA using the Meeting Room for May 16 from 7pm to 9pm and May 17 from 10 a.m. until noon, Mueller seconded.
ROLL CALL: Elbassiouny, yes; Mueller, yes; Horensky, yes; Strunk, yes; Dempski, abstain.

5. Request from Evan Howell, Tax Collector, to attend Collectors Conference- Strunk made a motion to approve Evan Howell, Tax Collector, attending the Collectors Spring Seminar in Atlantic City from May 19 through May 22, Mueller seconded. All were in favor.

6. Request from Pete de Boer, Certified Public Works Manager, to attend seminars in East Brunswick on May 9 on Playground Equipment and May 23 on Managing Your Time - Strunk made a motion to approve de Boer attending these two seminars, Mueller seconded. All were in favor.

7. Autogiro Fields - The Mayor said the Township purchased through Green Acres and Township funding the Auto Giro Fields by Route 57 on Mill Pond Rd. It has come to a time when the Township may want to expand the park, because the fields are over stressed. When the property was purchased, it was stated they would not be doing any active recreation on the property, so Green Acres pulled back certain stipulations to complete the sale of the property. Normally, a Phase I and Phase II Study on the property, which is an Environmental Impact of the property. The Phase II would have a lot more detail and would include soil samples and make sure there is no arsenic. The Recreation Commission would like to do some studies to see the costs associated with this. The first step is to do the Phase I and Phase II Study to determine whether they even could do anything with the property. The first step would be to order a Phase I and Phase II Study if this proves to be acceptable. The Mayor said, when they did the AJR Property, it was approximately \$8,000 for Phase II. He felt it would run approximately \$15,000 for both studies. Strunk asked where the money would come from and the Mayor said the Open Space Trust Fund.

The Mayor asked for a motion to get a price quote for a Phase I and Phase II Study on the Auto Giro Property. Elbassiouny made the motion, to get price quote for Phase I and Phase II Study on Auto Giro Property, pending availability of funds from Open Space Trust Fund, Mueller seconded.

ROLL CALL: Elbassiouny, yes; Mueller, yes; Horensky, yes; Strunk, yes; Dempski, yes.

Elbassiouny said he would like to see a turf field come into Township. Horensky said there was just an article in newspaper about turf, that sometimes children get scratches in their eyes. Strunk said that the article said that 3 have lead contamination from the turf. Horensky said the EPA is doing testing to find what the problem is with turf. He felt it would be good for the students to play on the turf, because they are at a disadvantage when they play other schools with turf and they have never played on them.

Daryl Detrick said the idea of turf needs to be looked into for the Township. Warren Hills Regional High School is going to be moving to put a referendum out for the facility across from the high school. They are considering cost cuts to get it approved. There will be a School Board Meeting on April 22 and they like any support they could get on the turf issue on a referendum.

The Mayor said, regarding the turf, the school is not eligible for Green Acres Funding, only the municipality. The school could sell the land to the Township for \$1.00. Then they could create a four way Shared Service Agreement with all the sending districts. They could apply for a Green Acres Development Loan for 2%, then fund it through Open Space Tax. The 2% is a fixed loan and a lot less than any bond you can get. Horensky said the only drawback is, with any Green Acres Grant, how do they insure the facilities are used primarily for those paying for it, rather than anybody in the State of New Jersey that wishes to come in and use it. The Mayor said this is the drawback. The Mayor said you could prioritize and reserve the field for certain use, which could be part of the sales agreement for \$1.00.

Elbassiouny asked, what if an organization wants to give a donation to the Youth Association to have priority use on the fields, would this work? Detrick said it is Green Acres, they would have problems with this, he did not know for sure. If they go on the schedule, which is on a first come basis, but you prioritize, could it be done? He said he works for Warren County Community College, which is in Washington Township and they have tried to get a sports team. He suggested that possibly the college could donate and noted, this is not a confirmation, it is too early for this. If the college donated \$20,000 a year to the Recreation Commission and in return use the fields. There are no teams now, this is just something in the making. Elbassiouny said the money would go to the Township, in exchange for priority and booking. He was just bringing this up as a suggestion at this time. Elbassiouny said he does not see the difference when you are doing a schedule if you prioritize one group over another. This should not make any difference in Green Acres. The Mayor said you could prioritize on reduced usage, based on maintenance concerns. They never said no you cannot prioritize who has first shot at fields.

The Mayor said the motion they are going to vote on, he wants it perfectly clear are going to be multi-purpose fields. They are not going to be soccer or football fields, they are going to be a level playing surface they may put a back stop on, but the fields will be multi-purpose fields.

8 LUB Checklist/resolution- discussed earlier.

9. The Mayor was concerned about an OPRA request that was long overdue and had not been sent out. The Clerk said that it has been resolved.

10. Pinnacle Performance Bond - The Mayor said, in 2005 -2006 the improvements were largely completed on the development. The problem is the Township has never accepted any roads, lights, sidewalks, curbs, etc. He sent a certified letter to Pinnacle asking for a sum of \$2,000 to be put in their escrow account. He gave a 10 day business response time, which has passed by several days. He has received no check from Pinnacle to fund the final inspection costs of the property. He talked with the Township Attorney and they are free to use the cash portion of the bond to complete the improvements. He asked for authorization for a letter to be written by the Township Attorney to Pinnacle saying that unless the Township hears from them by a certain date, they shall take \$2,000 from the account and put in escrow. The engineer will go down and make final inspections and take appropriate action after that being done. Mueller made a motion to authorize the Township Attorney draft a letter to the Pinnacle Attorney stipulating they have 7 days to give an answer or the Township will take \$2,000 from cash deposit and use it for escrow, Elbassiouny seconded.

ROLL CALL: Mueller, yes; Elbassiouny, yes; Horensky, yes; Strunk, yes; Dempski, yes.

11. The Mayor said he has been talking to Steve Rogut, Bond Counsel, about refinancing the debt for a permanent solution to pay down principal and interest. There are two BAN payments due. One would be May 22 and next one is in August. The BAN interests now are about 1.75% or 1.8%. They are currently paying 3.75% interest on all BAN payments. Right now, they could refinance the existing BAN'S as a 1.75% or 1.8% rate. The Township could pay down a BAN 30 days prior to it being issued. Elbassiouny said they do not know what it is going to like next year, so they are taking a risk if the bond market goes up, they will lose the money. Elbassiouny would support going for the lower rate now, but would like to see it done as a whole. Strunk said his preference was that on the properties they sell, pay down the existing debt and get that immediately permanently financed. The Mayor said they would take

the proceeds from sale of the building and land and cancel that portion of the debt and roll the remaining into the new bond rate. Horensky said they have always said the sale of the property would be used to offset the cost of the building. Horensky said it seemed to be the feeling of the Committee that all the information be given to Bond Counsel for review and information.

12. The Mayor said that there was a mis-communication in the auction location in resolution. He did not

catch it until late, so the location was set in the building. Horensky said he agreed with the it should be held at the discretion of auctioneer. He has talked with Max Spann about a plan and it may be moved to the Municipal/Police Building. There was talk about doing the auction electronically.

The Mayor distributed a copy of the tax records on Block 65, Lot 3.03. It is actually zoned as Valley Residential. On the tax map it was not properly updated and shows it is part of the PBD. The ordinance shows it as Valley Residential and the Tax Map shows it as PBD. Campbell said, if the ordinance says the correct thing, all they have to do have a motion to authorize the engineer to change the tax map. Mueller made a motion to authorize the engineer to update the zoning map for Block 65, Lot 3.03 to reflect Valley Residential Zone, Horensky seconded. Campbell did not think it would have to be published. Elbassiouny said an announcement could be made at the auction that this was being done.

ROLL CALL: Mueller, yes; Horensky, yes; Elbassiouny, yes; Strunk, yes; Dempksi, yes.

REPORT FROM OFFICIALS

R.J. Strunk said he had a meeting on April 8, 2008 with the Finance Personnel to see how they are doing and talked over some issues regarding designation of responsibilities.

John Horensky said he met with the Fire Officials.

Mayor Dempksi had no report.

Barry Mueller said he is still looking for feed back on the lifetime achievement draft. He gave the Committee another copy to review. He will be checking with each one if he does not hear from them. Horensky said he reviewed it and felt they should go forward with it and the idea of having representatives from each Committee included is appropriate. He said any of the ways presented to honor the people would work. Horensky said once the new building is finished, there could be a wall designated to the people receiving this achievement honor. Elbassiouny felt the youth should be included in this, because they are the leaders of tomorrow. There was talk about possibly starting a scholarship for someone at the end of each school year.

Samir Elbassiouny said a meeting had been held regarding the cell issue, which has been resolved, the Township will only be paying \$25.00 per cell phone.

Elbassiouny said he was at the school board when the presented their budget. They also did a presentation at Hawk Pointe on the budget that was going to be introduced.

He met with de Boer regarding the telephone system and they are working on getting quotations.

PAYMENT OF BILLS

Horensky made a motion to approve the payment of bills that each committeeman signed, Elbassiouny seconded.

ROLL CALL: Horensky, yes; Elbassiouny, yes; Mueller, yes; Strunk, yes; Dempksi, yes.

EXECUTIVE SESSION

Mueller made a motion to go into Executive Session at 9:30 p.m. for a personnel matter and litigation/contractual matter, Elbassiouny seconded. All were n favor.

The doors were opened. Horensky made a motion to come out of Executive Session at 9:45 p.m., Strunk seconded. All were in favor.

Campbell said the Committee came out of Executive Session at 9:45 p.m. They discussed a litigation/contractual matter regarding Y-3 (Grape Vine) and a personnel matter. Executive Session Minutes will be available once they are deemed to not contain confidential information.

Horensky made a motion to adjourn at 9:45 p.m., Strunk seconded. All were in favor.

Respectfully submitted,

Mary Ann O'Neil RMC/CMC/MMC
Township Clerk