

**WEST GOSHEN TOWNSHIP
BOARD OF SUPERVISORS MEETING
September 12, 2001**

A regularly scheduled meeting of the Board of Supervisors of West Goshen Township was called to order by Chairman Robert S. White at 4:02 p.m. on Wednesday, September 12, 2001, at the West Goshen Township Administration Building. All members were present. Dr. White opened the meeting with the Pledge of Allegiance to the Flag.

Dr. White asked all present to pause for a moment of silence in memory of those who died on Tuesday, September 11, 2001 as a result of the terrorist attacks in New York City, at the Pentagon and in Western Pennsylvania.

Dr. White opened the floor for public comment. No public comments were made.

Sharon Lynn, Township Manager, announced that the 5th annual Community Day held on Sunday, September 9, 2001 was a success with approximately 4,500 people attending the event at the West Goshen Community Park.

Nancy D. Rodgers, Zoning Officer, announced that the Zoning hearing Board will hold a public meeting on Thursday, September 13, 2001 at 7:30 p.m. at the Township Administration Building to hear ZHB 11-01 and ZHB 12-01. For ZHB 11-01 the applicant is Stephen Conway, 850 West Chester Pike, West Chester, PA. The legal owner of the property affected is William E. Thomas, Jr. and Betty Lou Thomas, 821 Lincoln Avenue, West Chester, PA. The conforming property for which the application is made is 1.035 acres, located at 821 Lincoln Avenue, zoned I-3 General Industrial District. The applicant is seeking a variance for relief from the 100 foot side yard requirement when an industrial property abuts a residential use or residential district. For ZHB 12-01 the applicant is Cold Spring Run, Inc., 21 South Church Street, West Chester, PA. The legal owner of the property affected is Harry E. and Rae R. Johnson, 806 Old Westtown Road, West Chester, PA. The conforming property for which the application is made is 13.7 acres, located at 806 and 800 Old Westtown Road, zoned R-3 Residential District. The applicant is seeking Special Exceptions to allow construction of a roadway, bridge or culvert, waterline, sewer line and other construction associated with a roadway within the Flood Hazard District. This approval is necessary prior to subdividing the property into sixteen single-family lots. Ms. Rodgers further announced that Mr. David B. Yarnall, President of Cold Spring Run, Inc., has indicated he is not ready to make his presentation to the Zoning Hearing Board on September 13, 2001 and intends to ask for a continuance of this hearing.

On motion by Mr. Meakim, seconded by Mr. Little, the Board unanimously approved the Board of Supervisors minutes from August 8, 2001 and August 22, 2001.

On motion by Mr. Meakim, seconded by Mr. Little, the Board unanimously approved the Treasurer's Report dated August 31, 2001 for the General Fund, the Sewer Revenue Fund, the Waste and Recycling Fund, and the Capital Reserve Fund, as well as the bills to be paid from the General Fund, the Sewer Fund, the Capital Reserve Fund, and the Waste and Recycling Fund.

Chief Michael Carroll gave the Police Report for the month of August, 2001. Chief Carroll announced that a vehicle and two officers had been sent to New York September 11, 2001 to join with the New Jersey State Police to help in the recovery efforts at the World Trade Towers. At 2:00 a.m. September 12, 2001 the officers were sent back to West Goshen Township to await further instructions.

Ralph Brown, Fire Marshal, gave the Fire Marshal Report for the month of August, 2001. Mr. Brown also gave the reports for Good Fellowship Club of Chester County and Goshen Fire Company.

Richard Hicks, Building Official, gave the Building Inspection Activity Report for August, 2001.

On motion by Mr. Little, seconded by Mr. Meakim, the Board unanimously approved the West Goshen Subdivision and Land Development Improvement Maintenance Agreement and West Goshen Township Financial Security Agreement with Irrevocable Letter of Credit for SBCM, Inc. T/A Short Brothers for the Hurst Subdivision.

On motion by Mr. Little, seconded by Mr. Meakim, the Board unanimously approved the Financial Security Agreement, Improvement and Maintenance Agreement, and Developer's Performance Bond for public improvements for the Tiberton Subdivision Phases 1 through 5.

Prior to the Board of Supervisors considering the awarding of a contract for Residential Collection of Solid Waste and Commingled Recyclable Materials, Dr. White stated that bids were received and opened on Monday, August 27, 2001 at 2:00 p.m. Dr. White said that the new contract reflects an overall 65% increase over 5 years for trash pick up in West Goshen Township. A proposed \$55 quarterly fee beginning January 2002 will reflect a 29% increase from the current fee of \$42.75 per quarter.

On motion by Dr. White, seconded by Mr. Meakim, the Board unanimously approved the awarding of a three year contract with an additional two year renewable option to BFI for Residential Collection and Disposal of Solid Waste and Commingled Recyclable Materials.

Dr. White informed the public that only two bids were received and he further advised that BFI will continue with the same pick up days of Monday and Thursday as under the current agreement.

Ms. Lorraine McDermott, 817 Halvorsen Drive, asked that consideration be given to going to only one pick up day with a greater emphasis on recycling. Ms. McDermott stated she thought most people would be willing to go to one day and that this should be considered in the future. Ms. McDermott inquired as to the length of the new agreement, to which Dr. White stated that it is a three-year agreement with two additional years optionable each year.

Prior to the Board of Supervisors considering the possible approval of an amendment to the West Goshen Township Zoning Ordinance 84-55 entitled "Design Standards" to delete paragraph "F" entitled "Lighting Standards" and substituting a new paragraph "F" which sets forth minimum criteria for the installation, use and maintenance of exterior lighting, Mr. Ronald C. Nagle, Esquire, Township Solicitor, stated that the hearing for this ordinance had been duly advertised on August 26 and September 2, 2001 in the Daily Local News as evidenced by the Proof of Publication marked as Exhibit B-1. Mr. Nagle also presented Exhibit B-2, the filing in the offices of the Chester County Law Library a true and correct copy of the ordinance, Exhibit B-3, the filing in the offices of the Daily Local News a true and correct copy of the ordinance and Exhibit B-4, a letter from the Chester County Planning Commission, dated September 6, 2001 supporting the change in the ordinance. The purpose of the new ordinance is as follows: (1) require lighting in outdoor public places where safety and security are concerns; (2) protect drivers and pedestrians on nearby streets from disabling glare from non-vehicular light sources that shine directly into their eyes and thereby impair safe travel; (3) shield neighboring properties from nuisance glare resulting from excessive light sources and from non-existent or improperly directed or shielded light sources; (4) limit the height of light standards to preclude or lessen light pollution; and (5) promote efficient design and operation with regard to energy conservation.

Mrs. Baker stated that the proposed amendment to the ordinance pertained to drivers and vehicles but nothing was stated about protection from glare for neighboring residences. Dr. White said that it does apply to residences.

Mrs. Baker asked if this would apply to the lights at the stadium at East High School.

Mr. Nagle replied that the change in the ordinance could only apply prospectively, not retroactively. Mrs. Baker said that when the issue of the lights at East High School was considered in 1995, the Township had no way of measuring the intensity of the light and she asked Mr. Richard J. Craig, Township Engineer, if the Township now has that capability. Mr. Craig replied that the Township does not. Mr. Nagle stated that measuring the intensity of the lights can be done through independent contractors. Dr. White stated that when the East High School lights were under discussion, the Township and the West Chester Area School District worked out a formula for how late the activities at the stadium can go on. Mrs. Baker said if she lived

in the area of the stadium, she would still object, as the glare is very distracting and invasive. Mr. Nagle stated that the new regulations are much more restrictive than any regulations the Township has had before.

On motion by Mr. Little, seconded by Dr. White, the Board unanimously approved an amendment to the West Goshen Township Zoning Ordinance 84-55 entitled "Design Standards" to delete paragraph "F" entitled "Lighting Standards" and substituting new paragraph "F".

Prior to the Board of Supervisors considering the possible approval of an amendment to the West Goshen Township Zoning Ordinance Section 84-19.L and M governing the area and bulk regulations in the C-1 Neighborhood Commercial District to modify the maximum floor area, individual stores to 5,000 square feet and the green area, landscaped to 40% minimum, Dr. White stated that there has been a noise problem with the music being played at the new WaWa store at 706 E. Gay Street.

Ms. Susan Bratton, Real Estate Representative for WaWa, said that the speakers at the gasoline pumps are required by the Department of Labor and Industry for safety purposes. She stated that two-way communication is all that is required and the playing of music is an option that can be eliminated.

Dr. White asked Ms. Bratton if she had the authority to stop the playing of the music and Ms. Bratton said that she did have this authority. Mr. Nagle stated that the Township needs a commitment about the music as complaints have been lodged with the Township about the quality of the music being played. Mr. John Jaros, Esquire, attorney for WaWa, asked what was meant by the quality of the music. Mr. Nagle said there have been numerous obscenities contained in the rap music being played through the speakers. He stated the Township doesn't want to be dictatorial about the music but residents have complained about what is being broadcast by the speakers.

Ms. Bratton said requests have been made by officials in other townships not to play any music, and there are WaWa facilities that use the speakers only for communication. Mr. Jaros stated that upon the Township's request WaWa would have no problem with having the music playing cease. Mr. Nagle asked Mr. Jaros how this could be formalized, and Mr. Jaros said he would provide Mr. Nagle with a letter stating no music would be played. Mr. Little asked if the music could be stopped by the next day, September 13, 2001.

Ms. Bratton said because of the physical constraints for turning the music off, it could not be stopped the next day but would be in the next few days with September 21, 2001 being the latest for halting it. Ms. Bratton said she wants to be sure no one can reverse the change.

Mrs. Baker asked why the noise ordinance was not being enforced in this situation.

Mr. Nagle replied that the music can only be heard when one is on the premises of WaWa so the noise ordinance does not apply.

Mr. Nagle stated that the hearing for an amendment to the West Goshen Township Zoning Ordinance Section 84-19.L and M governing the area and bulk regulations in the C-1 Neighborhood Commercial District to modify the maximum floor area, individual stores to 5,000 square feet and the green area, landscaped to 40% minimum had been duly advertised on August 22 and 29, 2001 in the Daily Local News as evidenced by the Proof of Publication marked Exhibit B-1. Mr. Nagle also presented as Exhibit B-2 a letter from the Chester County Planning Commission, dated May 24, 2001, concerning this ordinance amendment.

On motion by Mr. Little, seconded by Mr. Meakim, the Board unanimously approved an amendment to the West Goshen Township Zoning Ordinance Section 84-19.L and M governing the area and bulk regulations in the C-1 Neighborhood Commercial District to modify the maximum floor area, individual stores to 5,000 square feet and the green area, landscaped to 40% minimum.

Dr. White opened the floor for public comment.

Mr. Matthew Markey, 717 Bicking Drive, asked Ms. Rodgers how residents could know for sure if the Zoning Hearing Board will grant a continuance for the Cold Spring Run development on September 13, 2001.

Ms. Rodgers replied that would not be known until September 13, 2001 when Mr. David Yarnall appears before the Zoning Hearing Board and the Board makes a decision on the request.

Louis McCauley, 827 Halvorsen Drive, stated that a member of the Zoning Hearing Board, Mr. Harry Johnson, is a party to the request of Cold Spring Run. Mr. McCauley asked how that would affect other members of the Zoning Hearing Board.

Ms. Rodgers said that Mr. Johnson has recused himself from all proceedings involving Cold Spring Run.

Mr. McCauley stated he was asking that the entire Zoning Hearing Board step down and that an ad hoc committee be appointed to decide on the request because he felt the other members of the Board are silent partners with Mr. Johnson and that deals may have been made for approval of the plan.

Mr. Johnson interjected and stated no deals had been made.

Mr. Nagle told Mr. McCauley he would need to petition the Zoning Hearing Board directly with his request for an ad hoc committee as the Zoning Hearing Board is a completely separate entity from the Board of Supervisors.

Dr. White stated for the record that the Board of Supervisors has confidence in the integrity of all the members of the Zoning Hearing Board. He said the plans must first be submitted to the Zoning Hearing Board and then to the Planning Commission before being presented to the Board of Supervisors.

Mr. Ralph Heaney, 820 Halvorsen Drive, asked if the Board of Supervisors has the final say in development plans and Dr. White said they do. Mr. Nagle added that the Board of Supervisors gives land development approval.

Mr. Harry Smith asked if the issue of sewage capacity might be a problem with the Cold Spring Run development, and Dr. White said it would not be.

Mr. Smith stated that there are still issues with the West Goshen Township Sewer Treatment Plant.

Dr. White said that in June when the issues were first raised Mr. John Scott, Plant Manager for the West Goshen Township Sewer Treatment Plant spent every night for one week in the area around the plant checking for odors. Dr. White said that the odors Mr. Scott found were coming from the West Chester Plant located at 351 Snyder Avenue where they were experiencing a mechanical failure.

Mr. Smith stated he had toured the West Goshen Township Sewer Treatment Plant and he was impressed with what he saw. He asked if the situation with the odors was continuing to be monitored and Dr. White said it was. Dr. White added that selling sewage usage to other townships has helped to keep West Goshen residential rates as low as they are.

Ms. Lorraine McDermott, 817 Halvorsen Drive, stated that sixteen more homes were to be added to the area around the sewage treatment plant with the Cold Spring Run development. Ms. McDermott said when she called in June to talk with Mr. Scott regarding the odors in the area, Mr. Scott told her the homes in her development should never have been built on that site. Therefore, more homes should not be allowed to be built on the property Mr. Johnson now owns and desires to develop.

Dr. White told Ms. McDermott that her development, Bernay Woods, was approved before any of the current members of the Board of Supervisors assumed office. Dr. White said the site was changed from I-2 to R-3 in May 1984 and that it is his belief that the current Board of Supervisors would not have approved the change.

Ms. Mc Dermott replied that Cold Spring Run should therefore not be approved.

Dr. White said that with the new technology at the West Goshen Township Sewer Treatment Plant there will not be a problem with the addition of the new houses and that the Cold Spring Run Development would not be stopped by the sewage capacity available.

Mr. Mike Walker, 713 Bicking Drive, stated he does not want to live in the area and smell the odors from the sewer plant. He said he hoped the plant would not be over expanded.

Dr. White said the plant would only be expanded as much as the technology will allow.

Mr. Walker inquired as to who made the West Goshen Township Sewer Treatment Plant a regional plant to which Dr. White replied the PUC. Dr. White stated that East Goshen Township applied to buy capacity, followed by West Whiteland Township and Westtown Township.

Mr. Meakim said part of the problem is the West Chester Plant.

Dr. White said the West Goshen Township Sewer Treatment Plant is trying to eliminate problems and will improve the system where they can and when it is possible.

Mr. Walker inquired as to why the Township has sold capacity to other municipalities, and Dr. White replied that the Township can be directed by the PUC to do so.

Mrs. Baker stated she did not understand how the PUC could direct the Township to sell capacity.

Dr. White said that because of selling the capacity to other municipalities the bond redemption for the Sewer Treatment Plant is almost complete and that this is a benefit to the residents of West Goshen Township. Dr. White also said that there is enough capacity at the Plant for any future development in West Goshen Township.

Dr. White said that East Goshen Township is considering expanding the Ridley Creek station.

Mrs. Baker asked if there was a chance the PUC would tell East Goshen not to expand but to buy capacity from West Goshen. Dr. White said no there was not because if West Goshen were to sell capacity now, it would not have the capacity needed for future development in West Goshen Township.

Louis McCauley, 827 Halvorsen Drive, asked what would happen if the sewage treatment plant has a breakdown. He also said that although Dr. White had stated that none of the current Supervisors were on the Board of Supervisors when Bernay Woods was approved, they are presently in office and are considering adding more houses in the same area with the Cold Spring Run development.

Dr. White replied that the Bernay Woods development was zoned I-2 and was changed to R-3 to allow development. He said that Mr. Johnson's property is zoned R-3 and that houses can be built there without a zoning change. Dr. White said the problem under consideration with this development is the flood plain and wetlands. Dr. White stated that Mr. Robert Lambert is the only former supervisor who is still in the area that approved the Bernay Woods development.

Mr. McCauley asked what had happened at the West Goshen Sewer Treatment Plant in June that caused a problem.

Dr. White replied that the plant had a breakdown in June and a new filter press had to be installed. The plant now has a backup system and if something breaks down, the plant personnel have the ability to switch over to the backup.

Mrs. Baker stated that the plant is doing a much better job than in the past.

Mr. Harry E. Johnson, 800 Old Westtown Road, stated he is the owner of the property at 800 Old Westtown Road and 806 Old Westtown Road that is proposed to be the Cold Spring Run development. He added that he has been a resident of West Goshen Township since 1966 and he has not had any objections to others moving in and developing the properties around him over the years. He asked why others are objecting to him now developing the property he owns. Mr. Johnson said all the rules and regulations of the Township will be followed and he stated that all residents could attend the hearings and meetings concerning this development.

Ms. McDermott stated that the residents' objections are not personal and that they are just trying to protect their properties from the water problems they have experienced in the past on Halvorsen Drive and Bicking Drive. She said the new houses would create a greater incidence of flooding.

Mr. Johnson said that the plans for the development would be submitted to local, state and federal agencies before approval is considered.

Ms. McDermott said she has enjoyed the privacy afforded by Mr. Johnson's property and that Mr. Johnson has been a good neighbor, but houses cannot be built on a flood plain without creating a problem. She said the houses around her all have sump pumps, with some houses having two sump pumps.

Mr. Johnson said when the Applegate development was constructed, a retention basin was installed and that this has helped with the flooding problem.

Dr. White stated that no building will be allowed in the flood plain. He said engineers would decide where the flood plain begins and ends. This will determine how many houses can be built on the property.

Maria Young, 811 Halvorsen Drive, said she has been a resident for 27 years and has watched West Goshen Township grow. She asked the Board of Supervisors to consider the volume of work that is presented to Mr. Richard J. Craig, the Township Engineer. She stated that there is a great volume of work presently with more to come in the future. Ms. Young stated she believes more technical expertise is needed which would include adding another engineer. She asked how the township can be expected to answer the questions it receives correctly given the volume of work being presented.

Dr. White replied that the Director of Public Works position was separated from that portion of work Mr. Craig encounters as an Engineer.

Mr. Ralph Heaney, 820 Halvorsen Drive, asked who would be looking at the maps for the Cold Spring Run development concerning the wetland and flood plain. Dr. White said that FEMA would take samples and check the soils. Mr. Heaney asked who would pay for the tests and Dr. White said the developer's engineers would be paying for the costs. Mr. Heaney said he thinks that the FEMA map is bogus because it shows a creek running through his front yard and there is no creek in his yard. Dr. White said the Board is aware there are problems with the map and will take that into consideration. Mr. Heaney asked why the FEMA map would even be considered when it is false. Dr. White replied that the map is where you start according to federal government regulations. Mr. Heaney asked if the federal government had been told the map is wrong. Mr. Nagle stated that the field study takes precedence over anything else and that the area has to be identified by the field study. Mr. Heaney said it should be known up front that the map is inaccurate and that he has been told in the past that the map could not be changed.

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Dr. White announced that the Board of Supervisors was not ready to make a decision on the application of Fern Hill, LLC, Supervisor Hearing S-5-01. Dr. White asked if it would be possible to have an extension.

Mr. Nagle said the time period for a decision expires on September 22, 2001. Since no representative for Fern Hill, LLC, was present, Mr. Nagle said he would contact Mr. John E. Good, Esquire, the attorney for Fern Hill, LLC, and request the extension.

There being no further business, on motion by Dr. White, seconded by Mr. Little, the meeting was adjourned at 5:00 p.m.

Respectfully submitted,

Sharon Lynn
Township Secretary