

WEST AMWELL TOWNSHIP COMMITTEE MEETING

September 26, 2012 - 7:00 p.m.

CALL TO ORDER AND STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

The regular meeting of the West Amwell Township Committee was called to order at 7:02 p.m. Present were Mayor George A. Fisher, Deputy Mayor Zachary T. Rich, Committeeman Thomas J. Molnar, Clerk Lora Olsen and Attorney Philip J. Faherty III. Also in attendance were Charles Case, Sean Pfeiffer, Howard Hope, Hal Shute, Bill Wolfe, David Gill, Nate Barson, Dave Beaumont, John Cronce, Cathy Urbanski, Rob Tomenchok, Porter Little, a host of Webelo scouts with their leaders, and Democrat reporter Christine Rojas.

Mayor Fisher announced that this meeting is called pursuant to the provisions of the Open Public Meetings Act. Notice of this meeting was included in the Resolution faxed to the Hunterdon County Democrat and Trenton Times on January 3, 2012, was posted on the bulletin board in the Municipal Building on said date and has remained continuously posted as required under the Statute. A copy of this notice is and has been available to the public and is on file in the office of the Municipal Clerk.

The meeting was recorded via digital recording system.

PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG

The pledge was led by the Webelos.

AGENDA REVIEW BY TOWNSHIP CLERK

The following items were added: 9. Unfinished Business: Toll Trees; 10. New Business: County Bridge Stone Choices; Date for Special Meeting. 7.B Municipal Alliance was deleted.

ANNOUNCEMENTS

The following announcements were made:

- Municipal Offices Closed in Observance of Columbus Day – October 8th
- WA Ladies Auxiliary Roast Pork Dinner – October 13th, 4-7 p.m. @ Firehouse
- Hunterdon County Electronics Collection – October 13th, 9 a.m.-1 p.m. Rt 12 County Complex
- Last Day to Register to Vote in November General Election – October 16th
- General Election – Municipal Building – November 6th, 6 a.m. – 8 p.m.
- PSE&G ROW Easement Trimming Along Branchburg & Roseland Lines to Commence July 1st and Continue Thru 2013
- JCP&L Routine Aerial Patrols Commence September 24th
- Please Come to the Table if You Wish to Address the Committee
- Kindly Turn Cell Phones Off During Meeting

PRESENTATION OF MINUTES

The following Regular, Special and Closed Session minutes were unanimously approved on motion from Fisher, seconded by Molnar.

August 29, 2012 Regular Meeting

August 29, 2012 Closed Session (Contract Negotiations-Police)

September 13, 2012 Special Meeting

September 13, 2012 Closed Sessions (Contract Negotiations-Police Lt; Personnel-Interviews)

OPEN TO THE PUBLIC/TOPIC NOT ON THE AGENDA

No one came forward.

INTRODUCTION OF ORDINANCE AND/OR PUBLIC HEARING AND/OR SPECIAL PRESENTATION

Auditor Charles Case – Mr. Case inquired if there were any questions or comments concerning the 2011 Audit and proceeded to review the recommendations (interfunds, 48 hour deposits, dog late fees) that will be part of the Corrective Action and the six items included in the management letter (old grants, more timely bank reconciliations, timeliness of GA6 report fillings and checkbook reconciliation, a tax sale premium needing cancellation to surplus, tax collector incomplete transfer recording). Also mentioned was the presence of 2010 watershed money sitting as a reserve that can be used in 2013 budget and that there is a nicely improved cap fund balance. In addition, there are four projects under Reserve for Preliminary Expenses that should be reviewed as these should not stay on the books for too long and a suggestion made for the reserve and capital improvement funds. Mr. Case stated that overall it was a good audit although some areas need to be a bit cleaner.

In response to a question concerning overall financial health and direction, Mr. Case noted that the resolution to reduce school tax gave a boost to the surplus, commenting that several years ago there was a million dollars in surplus, but if all goes well this year the township should have a good surplus going into 2013. Basically, the township is in good shape. Although there's always the concern with state aid cuts and CMPTRA, he doesn't think that it will go away totally. Things are moving in the right direction.

Regionalization Study – Dave Beaumont relayed that although there has been approval to move forward, they are waiting for a date and the crafting of the question. However, it is unclear who is to do the latter. It appears that the vote will be held next September but everything is sitting at the County level.

Introduction: Ordinance 16, 2012

The following ordinance was read by title and introduced on first reading:

AN ORDINANCE TO AMEND ORDINANCE 1, 2012 TO PROVIDE FOR AND DETERMINE THE RATE OF COMPENSATION OF OFFICIALS AND EMPLOYEES OF THE TOWNSHIP OF WEST AMWELL, COUNTY OF HUNTERDON, NEW JERSEY.

SECTION 1

The compensation of the officials and employees shall be amended to read as follows:

Open Space Secretary \$13.50--\$16.50/hr

SECTION II

All Ordinances and parts of Ordinances inconsistent with this Ordinance are hereby repealed.

SECTION III

This Ordinance shall take effect after final adoption and publication according to the laws of the State of New Jersey.

Molnar moved to introduce the Ordinance on first reading and Rich seconded. Motion carried unanimously. The public hearing will be held on October 30, 2012.

SPECIAL AND/OR STANDING COMMITTEE REPORTS

Open Space

- *Declaration of Encumbrance – ROSI Update for Adam Property:* A few changes have been made to address concerns raised earlier and will be presented to the Planning Board at their next meeting. Mr. Shute noted that these were not substantial but primarily discrepancies between the tax map and the survey. This information will be shared with the Tax Assessor. *Molnar moved to authorize the mayor to sign off if the Board approves the changes and Rich seconded. Motion carried unanimously.*

- *Wooden Property/Letter of Support:* A letter to County Open Space Coordinator Kevin Richardson was unanimously approved for the mayor's signature on motion by Rich, seconded by Molnar.

- *Bowers Offer:* Approved for release.

- *Project Status Updates:* John Cronce relayed that the **Toll North** deal is in the hands of their lawyers; that the County has made several calls; but, corporate has its channels. The township has the option of using their PIG funds; however, the recommendation is to wait until there's something received from Toll. Freeholder Walton has also been contacted concerning the project's status. As for **Nunn**, the option agreement is in their hands and Mr. Cronce will be in touch with them again over the weekend. Proposals for appraisal work are still coming in and Open Space will make a decision next month. Mr. Shute advised that, technically, an option agreement must be in place before expending money for appraisals. A **young farmer program** has been under discussion and Stephanie Miller of the SADC has been approached about it. Apparently is it something that the township has the option to do and would hold the note. Criteria would be items such as 10 years or more of farming experience, a good background and record. Mr. Cronce noted that he will be attending an open house at the Duke Farm on the 13th to get more information about the program and that state and federal money is available to help young farmers get started. Currently there is no program in the state but County staff were excited about the possibility and were receptive. Mr. Cronce was given the green light to dig into this in more depth. A suspension of **mowing** operations on the former Toll South lands on

Fridays was requested as the property has been leased and mowing is interfering with the hunting season. Mr. Hoagland will be so advised. A proposal has been received for the removal of 200 **existing trees** on this property. Mr. Cronce expressed concern over the balling operation and what would be used to fill in the holes. The proposal calls for clean back fill material but he would like to see 1) a certification of the top soil; 2) a smooth grade; and 3) inspection by an official of the Township. Best Management Practices for the dig should also be employed. In addition, as balling is usually completed in the fall and this will interfere with the hunting club which has leased the property until February. Otherwise, the proposal is a good one and will make the property more attractive to farmers. As for the Open Space **secretary** position, Mr. Cronce is in agreement.

Concerning the balling of trees, Cathy Urbanski noted that there's a **soils ordinance** and suggested that this be looked at in relation to the proposal.

Environmental

- *Invasive Binder Thank You*: Mrs. Urbanski read a note received by the Environmental Commission from the staff of West Amwell Elementary School expressing their deepest gratitude for the "*Wanted Dead or Alive: Invasive Plants in West Amwell*" resource binder. They have found the information most useful with many applications in education.

- *319h Grant Update*: The site plan for the high school has been delivered to Princeton Hydro for return to the Board for their resolution of approval. It's a moot point at the moment as the contract from the State has not yet been received. Mrs. Urbanski also noted that her time can be charged to the grant with the Township receiving the money.

Sourland Alliance

- *Water Conservation Advisory – Permission to Post on Website/Distribute*: Approved as an addition to the website. A few copies will also be available in the municipal building

Affordable Housing

- *Revised Operating Manual for Re-hab Program*: Ms. Walsh was not in attendance. Item held.

- *Resolution of Approval*: Item held.

Community Forestry

- *Forestry Plan*: Gary Robinson commented on the letter from the DEP; acknowledged that he's behind in submitting a plan; but, has been in touch with the forestry people. He has also been in touch with Les and Andy Alpaugh, who prepared the initial plan, and they have indicated that they can produce the update in a timely fashion. In response to a question about the plans use, Mr. Robinson relayed that it's a general plan for use by other committees as a management resource. A grant was received to accomplish this and a commitment is needed by September 30th. The cost of the update would run \$3000. A professional services contract will be requested from the Alpaugh's.

The status of work that was to be accomplished under an older grant was questioned. Apparently the work has been done but no bill was submitted/paid. Mr. Robinson will follow up.

Recycling – Mr. Fisher commented on his initial concern over not getting correct numbers from RVD but further research has found their numbers to be reasonable. Leads have been found for 30 yard dumpsters. Specifications for obtaining quotes should state re-conditioned units, not new ones.

Mr. Molnar noted that the recycling truck has to be emptied every week by our DPW staff. Apparently this was not done and there was a mechanical breakdown. He will alert Mr. Hoagland.

Finance

- *Hunting Program re: Additions to Permit*: Mr. Shute relayed there was a good lottery drawing; most applicants received something; and, everyone was fairly happy. However, the rules stated that there were to be no additions after of the date of the lottery and requests have been received for additions in violation of those rules. What to do was questioned although to permit this might open Pandora's box. The consensus of the Committee was to stick with the rules as set forth as there would be no gain to do otherwise for this sold out program. Changes, if desired, could be made for next year.

Website – Mr. Fisher stated that the site has to be the property of the township with updates easy for in-house staff to accomplish. Although there are user-friendly concerns and differing opinions as to set up, a lot of work has gone into this project and information available that was not before. The consensus of the Committee was to move forward with the new website as it

works well and all information is there. Mr. Gill stated that he needs the password for the present site in order to go live and that required changes would not be hard to do.

Mr. Beaumont inquired about whether there was to be a RFP and if the Technology committee should pursue e-mail replacement and a distribution system. Currently Comcast e-mail is employed. Rob Tomenchok offered that these would be topics for the next Technology meeting.

UNFINISHED BUSINESS

2011 Audit

- Resolution

RESOLUTION #158-2012

WHEREAS, N.J.S.A. 40A: 5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2011 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A: 5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, that the Township Committee of the Township of West Amwell, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

The resolution was unanimously approved on motion by Molnar, seconded by Rich.

STATE OF NEW JERSEY COUNTY OF HUNTERDON

We, members of the governing body of the Township of West Amwell, in the County of Hunterdon, being duly sworn according to law, upon our oath depose and say:

1. We are duly elected members of the Township Committee of the Township of West Amwell in the county of Hunterdon;

2. In the performance of our duties, and pursuant to N.J.A.C. 5:30-6.5, we have familiarized ourselves with the contents of the Annual Municipal Audit filed with the Clerk pursuant to N.J.S.A. 40A:5-6 for the year 2009);
3. We certify that we have personally reviewed and are familiar with, as a minimum, the sections of the Annual Report of Audit entitled "Comments and Recommendations."

(L.S.) <i>George A. Fisher</i>	(L.S.) <i>Zach Rich</i>
(L.S.) <i>Thomas J. Molnar</i>	(L.S.)
(L.S.)	(L.S.)
(L.S.)	(L.S.)
(L.S.)	(L.S.)

- *Corrective Action Plan:* CFO Carro submitted the following for consideration and approval.

**WEST AMWELL TOWNSHIP
CORRECTIVE ACTION PLAN
FOR AUDIT YEAR ENDED 12/31/2011
SEPTEMBER 26, 2012**

STATEMENT OF CONDITION 2011-1

1. **Finding:**
Deposits to the Animal Control Trust Fund, Construction Office and Public Assistance Trust Fund were not made within 48 hours as required by N.J.S. 40A:5-15, nor were the late fees properly charged.

Corrective Action: The Animal Control Trust Fund has changed it's computer program to better account for licenses and late fees collected. Deposits will be made timely so as to conform with the 48 hour rule. The Construction Official and Public Assistance Director have been informed to also comply with the statute.

STATEMENT OF CONDITION 2011-2

2. **Finding:**
Interfunds exist on the various Township balance sheets at December 31, 2011.

Corrective Action: The Chief Financial Officer will liquidate all prior year interfunds.

Submitted by,
Thomas J. Carro, CFO

The Corrective Action Plan was unanimously approved.

Possible Appointments – none

Updates – 1) **Energy Work for Firehouse** now includes a new roof with siding to be completed soon. A heat load analysis, conducted by the engineer, has been undertaken in order to prepare specs for new gas boilers. 2) The **SHREC/Solar** installation is waiting for the interconnect agreement. 3) A conversation with the Construction Tech has occurred concerning **Work Undertaken without Permits & Inspections** but a meeting with the building department and the assessor is needed to delve into this further. This will be an item for the upcoming special meeting. 4) Mr. Rich is working with Washington Crossing State Park concerning grants for **George Washington Road/Overlook Park Gate** and indicated that they want to help. Noted was that the road would have to be brought up to State specifications per Engineer Roseberry. 5) The Technology committee was requested to look into the **E-mail** system. 6) The **Gas Boy** item was held.

Planning Board Recommendation re: Establishment of Engineering Inspection Fees – In addition to this recommendation, there is a second concerning the checklist. In response to the question of who was to prepare the ordinance(s), Planning Board Chair, Rob Tomenchok, indicated that the budget doesn't have the funding for the planner to do this. The purpose is to establish fees for grading inspections and noted that some charges are too high. Mr. Tomenchok offered to prepare a draft ordinance.

Quotes for Snow Plowing – Mr. Molnar recommended not to proceed with the quote for snow removal and to bring in a 4th man, noting that this is the time of year when truck maintenance is accomplished. Also mentioned was that township vehicles would still be running salt over the same roads slated for outsourcing. Item held.

DPW Staffing Discussion – An organizational chart of DPW activities was presented as was an incomplete listing of activities/manpower since 1994. A brief discussion ensued over projected in-house vs outsourced costs. The possibility of bringing in part-time summer help for mowing was mentioned as a consideration. Item was held for a meeting with the DPW Supervisor.

Fulper/Johanna Food Sludge Odors/Petition – Mr. Fisher relayed that he had been copied on a letter from DEP. Bill Wolfe came forward, noting that he hadn't seen the DEP letter listed in the correspondence package but was assured that it had been distributed. Mr. Wolfe proceeded to inquire as to how to proceed as complaints concerning this have been historic, so it's not a new issue. In his most recent efforts, he had tried to put the Township Committee on notice by requesting assistance at the municipal level. He has also spoken with Mr. Fulper personally and had hoped that he would be here this evening in order to have a conversation clarifying information or uncertainty and relayed that he has contacted DEP, as these are State DEP issues with respect to the Johanna Foods sludge permit. Subsequent to that, a petition to DEP to revoke the Johanna permit was submitted. Although they've responded with the issuance of a letter adding additional restrictions to the Johanna permit, there's been nothing from the DEP with respect to the petition. Mr. Wolfe noted that he was curious as to what the Township Committee's position was in terms of what can be done to help out and the level of local concern, adding that from last week's correspondence he understood that this was pending review by municipal counsel. He also indicated that he tried to provide rationales as to why this was not a traditional right to farm issue and noted that the Township has authority under both land use and municipal code to do something about it. This is an issue that's been in the newspapers; it has not made West Amwell look like a township that is desirable; and it's something that is not appropriate for this town. He continued that the material being applied is not manure, nor is it a commercial fertilizer, neither of which would require a DEP permit to apply, but a DEP permit regulated activity issued under the Water Control Act and the Solid Waste Management Act. Therefore, the material is a solid waste and this is the regulatory framework under discussion.

Mr. Fisher stated that from a Township level, this is not a determination that he can make but is one that is determined by the DEP and worked out through them with Johanna Foods. It is above his ability to determine whether the material is sludge; that he sees the right to farm one side and a complaint from citizens on the other, with some folks complaining vehemently about the smell while others not finding it objectionable at all and a whole spectrum in-between; that he would be unable to make a determination on a scale from 1 to 10 what the smell level is on a given day; and, that the DEP has said that they will make that determination. In response, Mr. Wolfe offered that the Township could adopt a resolution of support or agreement with residents to revoke the permit. This would be a policy call, which is something as elected officials the Township Committee could do.

Mr. Rich spoke briefly about his dealings with Pennsylvania DEP and what it does to the business community by way of fines. Although he understands Mr. Wolfe's frustration, the Township is not the one issuing the permit.

Continuing to press his position, Mr. Wolfe offered that the response would not be a regulatory one but that he had supplied grounds under which a regulatory response could be taken. At this point, this is all that is being asked for, given that this has been an ongoing dispute, and the minutes from last July indicated that there was even some frustration expressed by municipal council that neither Johanna nor Mr. Fulper was responsive. It's been over a year, so if the Township Committee wants to solve a problem, they have to acknowledge that there is one. He then inquired whether he was to leave the meeting with the impression that the West Amwell Township Committee does not feel that the odor issues associated with this material are a concern. He also relayed that although he understands Mr. Rich's position as someone dealing with DEP as a regulatory agency, the Township Committee does not sit in

the same position. As elected public officials, the Committee represents the people of West Amwell Township, of which he is a constituent.

Mr. Rich then offered that everyone here is trying to do the right thing and agreed with Mr. Wolfe that there is a problem, noting that the DEP letter is the furthest issue has gone since his tenure on the Committee and the response states that Mr. Fulper must get this material spread within a certain time period or get shut down. This was then clarified as a 24 hour period by Mr. Wolfe, who continued that that the permit is to Johanna Foods not to Mr. Fulper but that Mr. Rich is making it sound like the big heavy hand of DEP is coming in here and shutting down a local farmer. He is trying to ascertain how thing works thing work but it took him two weeks to get a response from his initial e-mail, complaining again that the letter was not listed in the correspondence.

With assurances that the Township is not trying to hide anything and that the item was placed on the agenda for discussion, Mr. Fisher stated that the letter received relayed that DEP is ratcheting down on the parameters as well as the way that Mr. Fulper spreads the material received from Johanna Foods; that the permit is between Mr. Fulper and Johanna Foods; that there's movement in the process; and, that there's a 30 day window for information gathering. He expressed uncertainty about what it is that Mr. Wolfe wanted the Township Committee to do. In response, Mr. Wolfe re-iterated the resolution option urging DEP to support the citizen's petition and expressed concern that information is not being shared fully. He also suggested having the Township Committee request that DEP hold a public hearing where the smell issue as discussed earlier could be relayed. This would show that the Township Committee is trying to make progress on the issue as he, as a resident, has done everything he can do and has received some response from the state agency. He continued by asking whether the Committee was going to sit there and let it be said that the State government in Trenton is more concerned, more progressive, more pro-active, and more responsive than the elected officials. Also noted was that to have received a response within a week from DEP is extraordinary. At this point the state DEP has been more responsive than the local governing body. The ball is in the Township Committee's court and it's been almost 4 weeks.

The exchange continued over the issue/conditions of the permit; that a hearing would be agreeable; that more needs to be done; and, that it is unusual for DEP to receive a petition to revoke a permit. With the latter, if it were to be done, Johanna Foods would have to be given a chance to respond. However, it would be something else that the Township Committee could do and would show the residents that they cared or at least were trying to look into the matter even if the permit is DEP's call. Another suggestion, in line with the new conditions, would be to set up a monitoring station to check on whether the material is applied within the 24 hour window. Mr. Wolfe also indicated that if he had notice, he could possibly leave his house during that time frame or perhaps even monitor the situation himself. The main problem is that from a regulatory standpoint, the odors are unverifiable. In order for this to be enforced, it would require the DEP inspector to be on site at the time which is very unlikely scenario, although the odor does linger for quite some time.

Attorney Faherty offered that 'right to farm' is all well and good but that he doesn't believe that it trumps the Constitution that states that there's a to 'right life, liberty and the pursuit of happiness' noting that there are times at his house when there is no happiness to pursue due to the odor. Mr. Wolfe added that the right to farm statute doesn't trump the state's environmental laws either; that it's a nuisance oriented condition; and, that this is a regulated activity with a DEP permit as well as a water pollution control permit. This is something else that can be looked into and have counsel render an opinion, which will bolster the DEP's interpretation because they are only looking at the odor aspect. He continued that there is no question that land application of fertilizers of any type—whether it's commercial fertilizer, manure, or this material—ultimately ends up in the surface water and groundwater through run off and infiltration. There's also no question that the department has documented that there's a close relationship between agricultural land use and nitrate concentrations in groundwater. Mr. Wolfe then suggested that the County health department probably has well testing data showing residential wells that have failed for nitrates and, if so, it would be good to know if there is a relationship or connection between agricultural activity and well contamination; between agricultural activity and groundwater contamination; agricultural activity; and, certain runoff for Category 1 streams that run throughout the township. Also proposed was that the township could get involved with/look into any direct relevancy between these items and what additional loadings of this material would be as a rationale for opposing its use. This would permit the township to weigh in with some data and analysis when the DEP holds their 60 day comment period. Something like this should not be beyond the governing body's level of sophistication but if so, perhaps the Hunterdon County Health Department to do it. He also spoke about the private well testing act and the issue of confidentiality. Although neither street address nor block/lot number can be released, the information can be plotted on a map after which an analysis can be done and Mr. Wolfe urged the Committee to speak with the Health Department.

Mrs. Urbanski came forward as she found Mr. Wolfe's comments on the nitrate contamination most interesting in that a former resident's home was completely surrounded by this 'stuff,' and there's heavy nitrate contamination in the well on that property. The application of this material has been going on for at least 5 years and in the Township Committee minutes from December 2008 noted that this practice actually violates our BOH ordinances with nuisance and smells and another ordinance concerning the transportation of this type of material across township lines. Although the State permit may supercede township ordinances, all township ordinances are being violated. In addition, as far as the right to farm ordinance, the minutes of the December 10, 2008 Township Committee meeting indicate that the DEP is aware of this as Pat Brown, the same one who sent the most recent letter, stated that this is not something covered under right to farm...it is not a right to farm issue. The right to farm covers the spreading of manure from cows; it covers the use of lime; if the manure causes odors, that's fine and is covered under right to farm. But this material is industrial pollution and is the reason for the permit. Anything that is not produced on the farm; is imported from another locality; and, has a permit to discharge, is a pollutant discharge elimination system. Most of the material from Johanna Foods goes to a landfill. Mr. Fulper is paid to take this sludge that normally goes to a landfill and spreads it on his fields. She states that this is not a farming activity and supports it being looked into as it's been going on for such a long time. Mrs. Urbanski also requested that a resolution of support be considered as the smell is just not 24 hours...it's at least three weeks. The permit states that the material can't be applied if it creates nuisance conditions and if this stink that drives everybody out of their homes is not a nuisance condition, she doesn't know what is. It takes the quality of your life; you can't breathe; it burns your eyes; and, it's been reported to cause headaches as well as bothering lung function. Windows have to be kept closed as the smell permeates the house.

Citing that the governing body doesn't have the capability of determining whether the material is sludge or something else, Mr. Fisher noted that the material is coming from a yogurt plant. If this odor situation cannot be controlled, it'll be stopped as the DEP has changed the permit and this will most likely affect the operation. His stance was to allow DEP and the process to work. He also questioned if Mr. Brown had the authority to make the statement that this is not a right to farm activity.

Mr. Molnar offered that the solution may have already occurred with the change in time frame to 24 hours. Mrs. Urbanski wasn't convinced as the previous time frame was not adhered to; the product is anerobic; and, it has never been disked in.

Attorney Faherty referenced the letter from Pat Brown to Johanna Foods that spoke about the conditions being imposed and that the land application of the residue on a given site has resulted in an unacceptable odor situation. He volunteered to have the DEP person stay at his house...free of charge, to provide verification of the problem.

Mr. Wolfe spoke one last time and urged the Township Committee to ask DEP to modify the permit to say that a DEP inspector must witness the application. His main argument being that the material is inherently unsuitable, even if disked in after 10 minutes, and is still unacceptably stinky.

NEW BUSINESS

Discussion Concerning Possible South County Fire District – Mr. Fisher relayed that he's been meeting with local mayors on a monthly basis to discuss problems, solutions and shared services. At the last meeting, a South County fire district was the topic of discussion. He recently spoke with Chief Ent and questioned the other members of the governing body as to whether this is something to be pursued. Mr. Fisher stated that a map of Delaware-West Amwell-Lambertville shows this to be a central location and the concern was shared that if a South County district moves forward without us, it could dictate to West at a later date. The district would determine where equipment is needed and there is also the consideration of staffing. The other districts seem to have problems getting people and all districts suffer with the cost of equipment as well as the training component. Mr. Cronic relayed that West Amwell's response is good on emergencies although other types of calls have various levels of participation but then there's mutual aid. As most of the current firemen are 'getting on' and, as an ex-chief, Mr. Cronic offered that it would be a good idea to look as it'll take years before something like this would come together. He questioned if Mr. Ent was ok with a dialogue and was informed that there was no opposition to talking. Mr. Tomenchok relayed that Freeholder Rob Walton is a firefighter; strong supporter of shared services; and, that perhaps the County could help. Mr. Fisher continued that everyone except West Amwell is dealing with a shortage of people and that his preferred position is to be on the inside with this proposed effort. The consensus was to continue looking into a South County fire district.

Amendment to HC Water Quality Management Plan

- *Response from Planning Board:* Mr. Fisher commented on the document and its reference

to sewer service areas noting these are located only at the two schools and Breen and are for systems processing over 2000 gallons/day. However, before responding with a resolution, he would like to look into this a little further. Mr. Tomenchok added that the Planning Board's unanimous thought was that the nomenclature of the County map might be problematic in future planning documents and/or legal actions. Mr. Fisher continued that it may be only be semantics in that a large system is considered a package plant even though it's a big septic system. There's still over a month in which to respond and hopefully, the situation will be resolved with a couple of phone calls. Item held for further discussion.

- *Resolution of Consent*: No action.

Planning for 2013

- *Meetings*: The consensus was to stick with the 4th Wednesday for regular meetings with the annual re-organization meeting proposed for January 2nd at 7 p.m. A formal resolution for publication will be presented at a later date. A brief discussion ensued about the possibility of returning to two meetings a month, possibly the 2nd Tuesday as a work/talk session. Mr. Molnar offered the opinion that just as much gets done with the current schedule but further thought will be applied.

- *Professional Services*: Whether the Committee wished for a Non-Fair and Open or a Fair and Open process this year was questioned. The difference between the two was explained. This will be a discussion item for the next meeting and a list of current contract holders was requested.

ACO Agreement

- *Request from Delaware Township*: The Delaware Township Board of Health has requested that a separate spreadsheet be prepared to document the ACO's mileage, etc. to accompany the quarterly bill. Copies of the detailed logs were offered but they're looking for something more consolidated. ACO Nate Barson relayed that the contract states that an accurate log of miles would be provided, which is being furnished, but that he cannot pay someone to do what is being requested. The agreement is silent as to whether another document has to be created to accommodate the request but the Board secretary was told that an inquiry would be made. The consensus of the governing body was that the Delaware Township BOH could prepare their own spreadsheet from the ACO's logs. This information will be relayed.

- *Proposed Changes*: The current contract expires at the end of the year and Mr. Barson was questioned on how things were working out otherwise. He relayed that for the most part it's the BOH in Delaware that has the issues and makes recommendations to the governing body but it's the township committee who releases the funds. The highest user of his services is Delaware Township with Lambertville second with West & East about equal. As to whether he is on board if all parties renew for next year, Mr. Barson responded in the affirmative although there needs to be a couple minor adjustments. The first is a job description as the shared service agreement states that he is available 9-5 daily and is on call for emergencies after that. However, the latter is not spelled out. Also, he is required to be available 9-5 but doesn't get paid as a full time employee, which is fine, and he's not asking for benefits, but there should be something if he's coming back after hours...perhaps a per call compensation for nights. He stated that he never leaves the area and has not been more than 20 minutes from West Amwell in 8 months, nor has he had a day off during that time period as he always has to be here. Although that's something he accepted with the job, it would be nice to know that at least he'd get paid if called into service at 2 a.m. This type of call-out occurs about once a month in West Amwell. It would be for situations where a vehicle needs to be impounded but there's a dog inside, or an aggressive dog is in the vehicle, or that the vehicle can't be towed due to the presence of a dog. The classification of what constitutes an emergency is also needed.

Discussion turned to the handling of mileage. Mr. Barson inquired whether the Committee would like to find a way to provide a set dollar number for this—either by gallons or fee—as opposed to having quarterly bills for mileage. This would provide the cost up front and would also help him to determine how to work his vehicles. Mr. Molnar suggested that proposals be put together and presented for Committee review. As for a contract, Mr. Rich questioned whether this is something that should be nailed down before the first of the year as well. Mr. Barson indicated that this is something he would like to be considered in that there's a contract between municipalities, but not with him.

Concerning a continued shared service agreement for 2013, East Amwell has responded in the affirmative but there's been no word from Delaware Township or Lambertville. Some new protocols have been provided for dispatch in response to snags encountered. Sending a letter to the dispatch center was suggested but another option would be for each municipality to call their own police department with those entities in turn responsible for contacting the ACO. This would make the most sense given the experience gleaned this year.

Mr. Barson also relayed that he now has a separate public number to give out for non-emergencies. Mr. Fisher noted that minor problems were expected and the need for some tweaking was not a bad situation. These changes can be worked into a new agreement and presented for review.

The results of the recent census were then relayed. Prior to this work, there were 420 licensed dogs in the Township. The total now is 600, which is about a third more. This means that in the first year, assuming no collection of late fees and there are no summons issued, the census was paid for in the first year plus approximately \$500 extra. However, the expectation is that there will be late fees on at least half of the dogs licensed and that there will be a least 20 summons. That will double the money to the Township, Mr. Fisher noted that this is good but was not the objective, which was to have compliance with the law. Mrs. Olsen relayed that there were 1060 households surveyed and Dog Registrar Haberle has crossed checked canvas results with licenses for roads A through J and has turned up approximately 50 unlicensed dogs. There are about 700 more listings to be reviewed. Once that is completed, a final letter will be sent.

Sean Pfeiffer inquired about the methodology used for the census and was supplied with the information sought.

Flyers for Approval for Distribution &/or Posting

- *Auxiliary re: Pork Dinner on October 8th (Depot):* Approved
- *Sourland Planning Council re: Mountain Bus Tour on Oct 20th (Website):* Approved

Resolutions for Consideration –

- *S & W Resolution:* Held
- *Amending Police Ordinance for Corporal:* Attorney Faherty reviewed the relevant portions of Chapter 38, noting that the rules section refers to a set of regulations that can be amended by the Township Committee by resolution. The following resolution will allow for the position of Corporal.

RESOLUTION #159-2012

WHEREAS, Part 2 Article X, Section 38-34 (E) of Chapter 38 (Police Department) of the Code of the Township of West Amwell Police Department permits that any amendment to the rules can be adopted by majority favorable vote of the Township Committee; and

WHEREAS, it has been determined that Section 38-68 (A) Supervisors needs to be amended to include the appointed position of corporal; and

WHEREAS, this appointed position is not be construed as a promotion nor is there to be extra pay involved; and

WHEREAS, the duties of corporal will be as set forth in Section 38-68 (B) and Section 38-71

NOW, THEREFORE BE IT RESOLVED by the governing body of West Amwell Township that the position of corporal is hereby added to Chapter 38 of the Code of the Township of West Amwell

The Resolution was unanimously approved on motion by Molnar, seconded by Fisher.

2012 Best Practices – The survey, as completed by the Clerk and CFO, was presented for review. The following survey questions were changed from ‘no’ to ‘yes’ – 7, 17, 25 and 26. The total score is within the range that will provide 100% of final aid payment.

County Bridge Stone Choices – A letter was received requesting input from the Committee on the color of stone to be used for the facing of the Route 579 W-71 bridge pylons. The work is tentatively scheduled for the third week of October and the contractor needs to place the order. Mr. Rich will collaborate with Ruth Hall and forward a recommendation to the Clerk.

Date for Special Meeting – Interviews for a new patrolman, plus other items mentioned earlier, was set for October 10th at 6:00 p.m. The meeting will be held in the Clerk’s office as this is Court night.

OPEN TO THE PUBLIC

Mr. Pfeiffer came forward with Open Space project information. Barbara Nunn had called about their option agreement--the County has apparently lost the one they signed previously and it may have since expired. Mr. Nunn is currently out of the country but they expect to meet with

their attorney, which will be an additional expense. Mrs. Nunn will call Sue Dziamara and offer a copy of their original agreement. Mr. Pfeiffer noted that option agreements caused problems at the time and that former Mayor Corboy had sent a letter.

Reporter Christine Rojas inquired as to the Johanna Foods decision. Mr. Fisher relayed that the contract and permit are between the entities involved and they are moving to correct the problem. There is a 30 day window for Johanna Foods and Mr. Fulper to respond to the new conditions, so the Committee will wait for that response. He and Mr. Molnar agreed that nothing more will happen until spring to implement the conditions. Mr. Fisher also noted that he will not get in the middle of a smell issue and doesn't want to have the Township drawn into this fight. No wells have failed and the Township is to receive a grant for the Alexauken Creek. Attorney Faherty noted that the Speranza closing was held up due to nitrates in the water. Whether this could not also be attributable to a lawn service was questioned by Mr. Fisher, although he does favor the enforcement of the rules. Mr. Rich weighed in noting that he understands the anger and what is wanted. Mr. Fisher continued that there's a responsibility to all involved and the Township's stance should be that the permit be enforced and monitored.

The consensus was that a letter be sent to Pat Brown at DEP, with a copy to Mr. Wolfe.

ADMINISTRATIVE REPORTS

Treasurer –

RESOLUTION #160-2012

WHEREAS, there exists on the Trust Fund Balance Sheet a Tax Sale Premium in the amount of \$ 5,377.82 which, according to the Township Auditor, is unidentifiable and should be canceled to Current Fund surplus.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of West Amwell that the Chief Financial Officer cancel the Tax Sale premium in the amount of \$5,377.82 and transfer it to Current Fund surplus.

The Resolution was unanimously approved on motion by Fisher, seconded by Rich.

Presentation of Bills for Approval:

RESOLUTION #161-2012

BE IT RESOLVED by the Township Committee of the Township of West Amwell that the vouchers listed on the Bill List, in the amount of \$199,579.44 dated September 26, 2012, as presented by the Township Treasurer/Chief Financial Officer, be paid from existing appropriations.

Molnar motioned to approve the evening's bills for payment. Rich seconded. Motion carried unanimously.

Treasurer Report: Appropriations through September 25, 2012 were provided and reviewed.

Tax Collector – The monthly report for August 2012 was received showing receipts in the amount of \$2,777,460.40.

Construction – The August 2012 Permit Fee Log Details (25), Monthly Activity Detail Report-Permits, Payment Audit Report (\$6,394.00), Payment Summary Report (29 records; \$6,394.00 collected), Monthly Activity Detail Report-Certificates (9), and Certificate Log Detail were received for PermitsNJ. Deposits for August totaled \$6,160.00

Court – The August 2012 monthly report was received showing a ticket total of 492 (340 local) and the receipt of \$10,889.694.

Zoning Officer Report -- The August 2012 report of activities was received. Numerous phone calls and interpretations were noted. Five permits were issued. Deposits for August totaled \$100.00.

The reports were unanimously accepted as received.

CORRESPONDENCE

The correspondence as listed on the Agenda was ordered filed.

ADJOURNMENT

There being no further business, the meeting was unanimously adjourned at 10:15 p.m. on motion from Fisher.

Respectfully submitted,

Lora Olsen, RMC
Township Clerk

APPROVED: 11/5/2012