

SPECIAL WEST AMWELL TOWNSHIP COMMITTEE MEETING

July 27, 2011 – 5:00 p.m.

The West Amwell Township Committee met on the above date at 5:10 p.m. Present: Mayor Molnar, Committeemen Fisher and Rich, and Attorney Faherty. Also present were Chris Rose and Art Neufeld.

In compliance with the Public Meetings Act, Mayor Molnar announced that this Special Meeting was called pursuant to the provisions of the Open Public Meetings Act with notices faxed to the Hunterdon County Democrat and the Trenton Times on July 22, 2011. 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.

AMWELL DAM 1 REPAIR - Continued Discussion & Possible Action: This item has been postponed. Attorney Faherty explained that an agreement has been prepared designed to move forward with the project while protecting the interests of the taxpayers by (1) requesting a guarantee in the form of a letter of credit, (2) a hold harmless agreement, and (3) an escrow account to cover the township's expenses. A call was received today from the attorney expressing objections to the agreement, specifically the letters of credit, as the individual property owners were upset; didn't want to put their personal property on the line; and, maintaining the position that the State says the Township has to do this. The word 'reasonable' came up in the conversation but Attorney Faherty stated his position that a letter of credit is reasonable to protect the interests of the taxpayers and having some guarantees. A written response of their objections to the agreement is forthcoming; will be provided to the Committee as soon as it arrives; and, a special meeting may be needed. Attorney Faherty indicated that although he knows what the statute says, he wants to review the case law and, although Mr. Friedman supplied a stack of materials, he finds it amazing that they wanted a decision yesterday while providing the paperwork tomorrow. He expects that the agreement will be picked apart as the position held by the other side is that the Township is not authorized statutorily to do what is being asked for. Attorney Faherty continued that he had obtained copies of different agreements for a similar dam project back awhile back which involved the same statute. He also noted that he relayed to the other attorney that the Committee wants to cooperate but that a lot has changed since 2008, especially financially, so the Township can't be on the hook in any way shape or form, but was told, again, that the Township would be protected with the special assessment. This is something that Attorney Faherty wants to obtain information about in terms of how this would be implemented. Assessor Gill has been contacted in this regard as well. Attorney Faherty also relayed that he was informed by the group's attorney that township expenses could be thrown into the special assessment and apportioned in terms of the settlement; that even if the landowners were to go belly up and not finish the project, the lien would be attached to their property; and, that the Township would be paid at some point by either the landowner or whoever buys the tax sale certificate. The subsequent discussion raised issues such as: where the Township would get the money if they had to make good on the note; if there was a way to insure against this; concern over the provision of a twenty year note; and, that the reduced note amount was not an insurmountable factor when compared to the original loan amount requested. Also briefly discussed were the dam's construction; DEP's threatened fine; possible attempts to put the property into open space; that the group, not the Township, is tied into a time line; a bit of history about how the property came into being and it's purpose; the letter of credit; a continuing question as to why this isn't going to the County as they deal with dams and bridges; and, the low interest DEP loan with its municipal co-sign provision as related to State mandate/State pay.

DISCUSSION CONCERNING BLOCK 12 LOT 14:

A proposal was received from Chris Rose for the referenced property in which he would forego his salary for the next five years to pay for the purchase. As to whether there would be a problem with this approach, Attorney Faherty relayed that the State controls how municipalities buy and sell property. The only reason that the Committee was able to discuss this tonight is because the first two attempts to sell drew no bidders. Although the law provides that once that happens, the Township can negotiate, the offer under consideration would not equal the highest bid rejected. In addition, the purchaser would have to come up with 10% down before closing. The rest would take the form of a mortgage, which would be made up by the yearly salary, but callable in 5 years. If not paid off in that time, private financing would have to be obtained. Mr. Rose indicated that he would not be interested under those conditions as a mortgage would require services that work. As the well is contaminated and the septic system would most likely fail, a lien holder would want a new septic system and well. In light of the septic and well situation mentioned, Attorney Faherty will reach out to DCA and

the Local Public Contracts group to see if there is any way to work this out as it appears to be totally unreasonable and the Township would never be able to get rid of any property. A brief history of the attempts to sell, including how the price was determined was relayed. The possibility of a re-bid with a best offer instead of a minimum bid and right to reject was raised. The fact that there have been five other expressions of interest in the property but not at the advertised price was noted. It was suggested that Assessor Gill requested to provide an assessment of true value to assessed value to produce an approximate market value for the next meeting so a decision can be made on a third bid round.

DISCUSSION WITH CONSTRUCTION OFFICIAL:

Mr. Rose explained the benefits of adopting the **mechanical subcode**, for which he holds a license that is good for one and two family dwellings; the types of inspections this would cover; the convenience it would create for the homeowner as both the plumbing and fire inspections would be done by the same person; and, that the township would save money. Although a fire sub code official would still be needed for commercial inspections, and is a mandatory position, fewer hours would be needed. Discussion ensued concerning the proposal; the difference between the two current fire positions; staffing options/shared service potential; possible savings involved; salary restrictions involved for a retiree; and, a potential tie-in with the evening's previous discussion concerning the former Perrine house. Mr. Rose indicated that he spoke with the Construction Official in Delaware Township who may have someone interested in the in the fire subcode slot. He also noted that he is trying to save the Township and the department some money, as well as working the house into the deal. That this subcode proposal is not dead if the house falls through was confirmed upon inquiry by Mr. Fisher but the latter is something that has to be looked into, which will take some time.

The issue of **space** in the Construction office was mentioned. Mr. Rose noted that there's a lot of old files that DCA requires be kept for the life of the structure. Any permit that is taken out has to stay stored until that structure is destroyed. Residential plans, however, can be destroyed after 10 years. Schools and similar structures have to be maintained. Although these files do not have to physically remain in the office, they have to be stored/archived somewhere safe from ruin. Access is also an issue due to OPRA requests where information needs to be readily accessible as it takes time to go thru the block/lot files to determine what is being requested. Returning to the fire subcode position, it was suggested that the Raritan Township administrator be contacted to see if there could be a shared service worked out. The Clerk was instructed to send an e-mail to this effect and to also find out who holds the position in Lambertville. It was generally agreed that a shared service is the way to go due to its tie to State aid. Mr. Rose offered that getting the best service for township residents should be taken into account and cautioned that care be exercised so that the Township doesn't wind up playing second fiddle. A brief exchange ensued about whether to advertise or try for a shared service given the reduced salary that would be involved. There was agreement to move forward with the adoption of the mechanical code. Mr. Rose will supply the specifics for the ordinance proposed for introduction at the August meeting.

Mr. Fisher inquired about the impact of the **solar array** on the Construction Department; if anything is needed outside of that office in order to do the work involved; and, if the inspectors feel comfortable with it. Mr. Rose indicated that he has had conversations with both the building and electrical inspectors and neither of them have expressed a concern. Art Neufeld joined the conversation and relayed that there would be three separate installations—two on the municipal property and one the roof of the grammar school. The ground mounted arrays will not require footings as the anticipated one thousand, 5" square poles are just driven into the ground. As it is assumed that these will be driven to a depth of at least six feet, there shouldn't be a problem but will be reviewed when the plans come in. Also relayed was that there will be approximately 15, six inch diameter utility poles installed at a height TBD that will carry between 4 and 5 thousand volts on transmission lines. Swan Creek has received an easement to go through the County property to avoid wetlands for a consideration of \$10,000. Mr. Neufeld proceeded to review the sketch and the letter received concerning aspects of the project for the benefit of Mr. Rose and the Committee. A possible reversal of the number of panels for the elementary school and the array behind the municipal building was noted, but the total number should not affect the goal of providing 90% of the power. Mr. Rose expressed concern about roof calculations so as to not collapse that structure; that this one will be the more involved project; and, was advised that great lengths were taken to insure against that possibility of collapse. Other specifics of the project were relayed. An estimated construction date of November 1st is anticipated but may be delayed due to the DEP permit process although this may be accelerated through the efforts of Mayor Del Vecchio, which may make the October 1st date initially proposed a possibility. Once construction begins, it is anticipated to take 3 months, although area rock and shale was mentioned as possibly causing some problems for the contractor. Discussion ensued over office time frames; the information needed by the

Construction Office for the permit process; when review work can commence; the interruption to the elementary school due to installation noise; and, the fact that contractor money is paid out as milestones are hit which in turn drives the schedule of events. Mr. Neufeld spoke at length about UL and non UL approved equipment and that the BPU would be involved with the latter to see if it will work on their grid. A process involving a very in-depth analysis could take place and non-UL approved equipment may need an engineer to sign off that it meets all the UL criteria. Mr. Rose recommended that there be three separate permit packets, although the project is considered as one, because it would allow for turning a system on as completed instead of waiting for all three to be finished. It also makes for easier tracking in the office. In addition, Mr. Nefeld was alerted to the part-time nature of the construction office and that the inspectors all work in the late afternoons and evenings. This information has to be disseminated to the contractors, although an emergency situation could be accommodated as long as it doesn't become habitual. Mr. Fisher relayed that monitors will be installed so that the kids can see how much electricity is being generated. There will also be access to a full weather station as part of this project. Appreciation was extended to Mr. Neufeld for the information imparted.

OPEN TO THE PUBLIC:

No public in attendance.

ADJOURNMENT:

There being no further business, the meeting was unanimously adjourned at 6:22 p.m. on motion by Fisher, seconded by Molnar.

Respectfully submitted,

Lora L. Olsen, RMC
Township Clerk