

WORK SESSION  
January 5, 2009

A Work Session of the Whitpain Township Board of Supervisors was held on Monday, January 5, 2009 at the Whitpain Township Building, 960 Wentz Road, Blue Bell, PA at 7:00 PM for the purpose of reviewing the agenda of the January 5, 2009 Supervisors' Organization Meeting. Chairman Joseph J. Palmer was present with Supervisors Brian W. Young, Anthony F. Greco, William L. McKernan III, and Adam D. Zucker. Township Solicitor James J. Garrity, Township Manager Phyllis C. Lieberman, Assistant Township Manager/Township Engineer Roman M. Pronczak, and Director of Finance John Marcarelli, Police Chief Mark Smith, Director of Public Works Ronald J. Cione, Director of Code Enforcement Michael E. McAndrew, Fire Marshal David M. Camarda, and Director of Parks and Recreation Kurt W. Baker were also present. There were three members of the public present.

The Supervisors reviewed the agenda discussing the selection of officers of the Board for 2009, approval of the minutes of December 16, 2008, approval of the December 2008 voucher list, appointment of the Township Solicitor, Zoning Hearing Board Solicitor, Board of Appeals Solicitor, Vacancy Board Chairman, and Planning Consultant for 2009, the setting of rates for the Township Solicitor, Zoning Hearing Board Solicitor, Board of Appeals Solicitor, and Planning Consultant for the year 2009, appointments and re-appointments to the Planning Commission, Zoning Hearing Board, Park and Recreation Board, and Board of Appeals, re-appointment of Fredrick McBrien as a Whitpain Township representative to the East Norriton, Plymouth, Whitpain Joint Sewer Authority, a motion authorizing certain individuals to sign all Whitpain Township fund checks, a motion authorizing certain persons to sign payroll checks and payroll checks to be paid in 2009 without monthly motion, pending Board approval of the monthly voucher list a motion to authorize the Township Manager to prepare checks to be signed by authorized personnel when necessary to meet the Township's obligations, a motion to authorize the Director of Finance to transfer funds among the various Township accounts, a motion to disburse and replenish a petty cash fund for 2009, maximum amount \$500, a motion to name TD Bank as depository for Township funds for 2009 and various other investment institutions fulfilling the requirements of the Township's investment policy for investment of Township funds, a motion to set the minimum capital purchase amount at \$5,000, a motion to set the 2009 mileage reimbursement rate at 55 cents per mile for use of personal vehicles for Township business, the scheduling of Supervisors' meetings for 2009, announcement of the annual Township Board of Auditors organization meeting on Tuesday, January 6, 2009 at 9:00 AM, the scheduling of Township holidays for 2009, certification of two delegates to the PSATS Convention in Hershey, adoption of Resolution No. 874 authorizing Berkheimer to collect the Local Services Tax, adoption of Resolution No. 875 authorizing Berkheimer to collect the Earned Income Tax, adoption of Resolution No. 876 appointing Berkheimer as Whitpain Township's tax hearing officer under and pursuant to the local taxpayers bill of rights for the express

purpose of adjudicating appeals thereunder, adoption of Resolution No. 877 authorizing Berkheimer to impose and retain costs of collections on delinquent taxes, adoption of Resolution No. 878 authorizing the Township Finance Director and Township Manager to make requests upon and receive any and all tax information and records from Berkheimer relative to the collection of taxes for Whitpain Township, and adoption of Resolution No. 879 supporting State action to ensure prompt and fair payments to emergency medical service (ambulance companies) providers. Resolution No. 880 regarding residential sprinkler systems was removed from the agenda until further information on the matter can be obtained. The Supervisors then discussed the adoption of Resolution No. 881 appointing Chief Mark Smith as the Open Records Officer for the Whitpain Township Police Department, two motions to release escrow, two public hearings on Ordinances relating to the Police Pension and Non-Uniformed Employees Pension updating them for compliance with IRS regulations, and a public hearing on proposed Ordinance No. 4-225 regarding the deleting of the entire Zoning Ordinance and replacing it with a new chapter creating a new Zoning Ordinance.

The Supervisors then discussed one legal matter, Wissahickon Park and two personnel matters.

The Supervisors then left for the public meeting.

The Work Session was not reconvened.

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Phyllis C. Lieberman  
Whitpain Township Manager

## #1-2009

In accordance with the law, the annual organization meeting of the Whitpain Township Board of Supervisors was held Monday, January 5, 2009 at the Whitpain Township Building, 960 Wentz Road, Blue Bell, Pennsylvania. Supervisors Joseph J. Palmer, Brian W. Young, Anthony F. Greco, William L. McKernan III, and Adam Zucker were present. Township Manager Phyllis Lieberman, Assistant Township Manager/Township Engineer Roman M. Pronczak, Township Solicitor James Garrity, Finance Director John Marcarelli, Public Works Director Ronald J. Cione, Police Chief Mark A. Smith, Code Enforcement Officer Michael E. McAndrew, Parks and Recreation Director Kurt W. Baker, Fire Marshal David Camarda, and Recording Secretary Michele Alifano were also present. There were approximately 50 audience members present.

Following the Pledge of Allegiance, Chairman Palmer called the meeting to order.

A motion was made by Mr. McKernan, duly seconded by Mr. Greco, and unanimously passed to elect Joseph J. Palmer, Chairman, Brian W. Young, Vice Chairman, Anthony F. Greco, Secretary, William McKernan III, Treasurer, and Adam D. Zucker, Assistant Secretary.

Chairman Palmer announced that a scholarship fund had been established at Abington Bank to benefit the son of Michael Garvin, a paramedic with the Second Alarmer's Rescue Squad who passed away suddenly in October, 2008.

At this time, Chairman Palmer provided a brief update on the state of the Township, noting that the Township is fortunate to have strong leadership and good vision with the members of the Board, and the Township staff. The Township was able to fund the pension programs without having to increase taxes in this volatile economy, and there are surplus funds due to conservative budget estimates. Chairman Palmer stated that the Township still manages to provide its residents with a high quality of service, without having to raise taxes to do so. Also, Chairman Palmer thanked all the Township employees for their dedicated service, especially with the challenges that they have faced over the past year.

A motion was made by Mr. Young, duly seconded by Mr. Greco, and unanimously passed to approve the minutes of December 16, 2008 Supervisors' meetings as written and distributed.

A motion was made by Mr. Greco, duly seconded by Mr. McKernan, and unanimously passed to approve all expenditures on the December, 2008 voucher list.

A motion was made by Mr. Young, duly seconded by Mr. Zucker, and unanimously passed to appoint James J. Garrity, Esq. as Township Solicitor, Herbert

Rubenstein, Esq. as Zoning Hearing Board Solicitor and Board of Appeals Solicitor, Brian Miles as Vacancy Board Chairman, and E. Van Rieker as Township Planning Consultant for the year 2009.

A motion was made by Mr. Greco, duly seconded by Mr. McKernan, and unanimously passed to approve the following rates of service for 2009:

|                                |   |
|--------------------------------|---|
| Township Solicitor             | \$145.00/hr. \$155.00/hr. for adversarial and litigation issues.  |
| Zoning Hearing Board Solicitor | \$135.00/hr.  |
| Board of Appeals Solicitor     | \$135.00/hr.  |
| Planning Consultant            | \$95.00/hr. for all work in conjunction with the Township and Planning Commission.<br>\$380.00 per Planning Commission Meeting. |

A motion was made by Mr. Greco, duly seconded by Mr. Young, and unanimously passed to appoint and re-appoint the following to the Township Boards and Commissions:

**TERM**

|                         |         |                |
|-------------------------|---------|----------------|
| Planning Commission     | 4 years | Mark Clemm     |
| Planning Commission     | 1 years | Harry Phifer   |
| Zoning Hearing Board    | 5 years | Fred Conner    |
| Park & Recreation Board | 3 years | Michael Brophy |
| Park & Recreation Board | 5 years | Kevin Finlay   |
| Board of Appeals        | 5 years | Dennis Nolan   |

A motion was made by Mr. Greco, duly seconded by Mr. McKernan, and unanimously passed to re-appoint Frederick McBrien to a five (5) year term ending on December 31, 2013 as a Whitpain Township representative to the East Norriton Plymouth Whitpain Joint Sewer Authority.

A motion was made by Mr. Young, duly seconded by Mr. Zucker, and unanimously passed to authorize the five (5) present members of the Board of Supervisors, Township Manager, Assistant Township Manager, and Director of Finance to sign all Whitpain Township fund checks.

A motion was made by Mr. Greco, duly seconded by Mr. McKernan, and unanimously passed authorizing the Township Manager, Assistant Manager, and Director

of Finance to sign payroll checks, and authorizing payroll checks to be paid in 2009 without monthly motion.

A motion was made by Mr. Young, duly seconded by Mr. McKernan, and unanimously passed to authorize the Township Manager, Assistant Township Manager, and the Director of Finance to prepare checks, pending Board approval of the monthly voucher list. (To be signed by authorized personnel when necessary to meet the Township's obligations.)

A motion was made by Mr. Greco, duly seconded by Mr. McKernan, and unanimously passed to authorize the Director of Finance to transfer funds among the various Township accounts.

A motion was made by Mr. Zucker, duly seconded by Mr. Young, and unanimously passed to disburse and replenish a petty cash fund for the year 2009. Maximum amount \$500.00.

A motion was made by Mr. Greco, duly seconded by Mr. Zucker, and unanimously passed to name TD Bank as depository for Township funds for 2009 and various other investment institutions fulfilling the requirements of the Township's investment policy for investment of Township funds.

A motion was made by Mr. McKernan, duly seconded by Mr. Greco, and unanimously passed to set the minimum capital purchase amount at \$5000.00.

A motion was made by Mr. McKernan, duly seconded by Mr. Zucker, and unanimously passed to set the mileage reimbursement rate at 55 cents per mile for use of personal vehicles for Township business.

Chairman Palmer announced the Supervisors regularly scheduled meetings for 2009, which will be held on the first Tuesday of every month, except in November, when the regular scheduled meeting will be held on Wednesday, November 4, 2009. All meetings will be held at 8:00 PM at the Township Administration Building. Work Sessions to review the agenda will begin at 7:30 PM and will resume after the public meetings for discussion of any other issues before the Board. The second monthly meetings will be announced and advertised, although they usually will be held on the third Tuesday of every month at 8:00 PM, except for the months of July and August when there will be only one meeting. Again, work sessions will begin at 7:30 PM and will resume after the public meeting for discussion of any other issues before the Board.

The second monthly meeting for January is scheduled for Tuesday, January 20, 2009 at 8:00 PM at the Township Building.

Chairman Palmer announced that the elected Township Board of Auditors will hold its organization meeting on Tuesday, January 6, 2009 at 9:00 AM at the Township Building. (Bee Bergvall & Company, CPAs will perform the actual work on the audit.)

A motion was made by Mr. Young, duly seconded by Mr. Greco, and unanimously passed to schedule the following as Township holidays for non-police employees in 2009:

New Year's Day  
Martin Luther King Day  
Presidents' Day  
Memorial Day  
Fourth of July  
Labor Day  
Veteran's Day  
Thanksgiving Day  
Friday following Thanksgiving Day  
Christmas Eve – ½ day  
Christmas Day  
New Year's Eve – ½ day

Note: Police receive holiday hours per contract.

A motion was made by Mr. Greco, duly seconded by Mr. Zucker, and unanimously passed to certify Joseph J. Palmer and Brian W. Young as delegates to the 2009 Pennsylvania State Association of Township Supervisors' Annual Convention in Hershey, Pennsylvania.

A motion was made by Mr. McKernan, duly seconded by Mr. Zucker, and unanimously passed to adopt Resolution No. 874 to authorize Berkheimer to collect the Local Services taxes.

A motion was made by Mr. Young, duly seconded by Mr. Zucker, and unanimously passed to adopt Resolution No. 875 to authorize Berkheimer to collect the Earned Income Tax levied by Whitpain Township.

A motion was made by Mr. Greco, duly seconded by Mr. Yong, and unanimously passed to adopt Resolution No. 876 to appoint Berkheimer as Whitpain Township's tax hearing officer under and pursuant to the local taxpayers' bill of rights for the express purpose of adjudicating appeals thereunder.

A motion was made by Mr. Greco, duly seconded by Mr. McKernan, and unanimously passed to adopt Resolution No. 877, authorizing Berkheimer to impose and retain costs of collections on delinquent taxes.

A motion was made by Mr. Young, duly seconded by Mr. Zucker, and unanimously passed to adopt Resolution No. 878, authorizing the Township Finance Director, Township Manager, or Assistant Township Manager to make requests upon and receive any and all tax information and records from Berkheimer relative to the collection of taxes for Whitpain Township.

A motion was made by Mr. Greco, duly seconded by Mr. McKernan, and unanimously passed to adopt Resolution No. 879, a Resolution supporting State action to ensure prompt and fair payments to emergency medical service (ambulance companies) providers.

Chairman Palmer advised that the next item on the agenda, Resolution Number 880, pertaining to the installation of residential sprinkler systems, was being removed from the agenda to allow the Board additional time to gather more information and come to a better understanding of the Resolution prior to having a vote on the matter.

A motion was made by Mr. Greco, duly seconded by Mr. McKernan, and unanimously passed to adopt Resolution Number 881, a Resolution establishing the Township's Open Records Policy under Act 3 of 2008 including, but not limited to, appointing an Open Records Officer for the Whitpain Township Police Department. The Chief of Police, Mark A. Smith, will be the Open Records Officer.

A motion was made by Mr. Greco, duly seconded by Mr. McKernan, and unanimously passed to release \$65,038.43 (Release #6) from the escrow fund for Deerfield at Whitpain (former Wistar property).

A motion was made by Mr. Young, duly seconded by Mr. McKernan, and unanimously passed to release \$45,225.00 (Release #6) from the escrow fund for the Deer Lake Development (Anderson / Lake Tracts LD-8-04), located on the southeastern corner of Morris and North Wales Roads.

As advertised, a public hearing was held for proposed Ordinance #310, an Ordinance amending Chapter 46 (Pensions), Article I (Police Pension Plan), of the Code of The Township of Whitpain to establish and continue a Pension Plan and provide for administration, eligibility of benefits, sources and allocations of funds, calculation of retirement benefits, return of participant contributions, vesting terms of retirement benefits, death benefits, and other matters associated with the establishment and continuation of the Pension Plan pursuant to the terms and conditions of the Whitpain Township Police Pension Plan as amended and restated effective January 1, 2008 and repealing all Ordinances, Resolutions and parts of Ordinances and Resolutions adopted prior to the adoption date of the Police Pension Plan inconsistent herewith.

Chairman Palmer called for comments or questions from the audience. Mr. Bob McDougall inquired as to any shortfalls with the pension plans. Mr. Marcarelli explained that we do not, and that there will be an annual evaluation performed by an actuarial, which is Township policy. He added that the Township is required by law to provide a minimum municipal obligation toward the pension plans to keep them soundly funded.

A motion was made by Mr. Young, duly seconded by Mr. Greco, and unanimously passed to adopt Ordinance #310.

As advertised, a public hearing was held for proposed Ordinance #311, an Ordinance an Ordinance amending Chapter 46 (Pensions), Article I (Non-Uniformed Employees' Pension Plan), of The Code of the Township of Whitpain to establish and continue a Pension Plan and provide for administration, eligibility of benefits, sources and allocations of funds, calculation of retirement benefits, return of participant contributions, vesting terms of retirement benefits, death benefits, and other matters associated with the establishment and continuation of the Pension Plan pursuant to the terms and conditions of the Whitpain Township Non-Uniformed Employees' Pension Plan as amended and restated effective January 1, 2008 and repealing all Ordinances, Resolutions and parts of Ordinances and Resolutions adopted prior to the adoption date of the Non-Uniformed Employees' Pension Plan inconsistent herewith.

There were no comments from members of the Board or from the audience.

A motion was made by Mr. McKernan, duly seconded by Mr. Greco, and unanimously passed to adopt Ordinance #311.

As advertised a public hearing was held to consider enactment of Ordinance #4-225, an Ordinance amending the Code of the Township of Whitpain, Part II (General Legislation), Chapter 160 (Zoning) by deleting Chapter 160 in its entirety as it existed prior to Ordinance No. 4-223, adopted by the Board of Supervisors on August 5, 2008, and replacing it with a new Chapter 160 entitled "Zoning".

A verbatim record of the hearing was taken by a court stenographer, and this record has been attached to and made part of these minutes.

Chairman Palmer provided a brief summary, stating that this proposed Ordinance was drafted to replace Ordinance #4-223, which was adopted on August 5, 2008. A problem arose when there was a question by resident Wayne Schiable at the hearing for Ordinance #4-223 before the Board of Supervisors regarding Section §160-240, which deals with protest to zoning amendments. The answer that was given to the resident was incorrect. He was told that the section would remain unchanged, when it was actually

going to be removed from the code. Consequently, the Township Solicitor advised that the Ordinance be re-advertised and another public hearing be held.

Mr. James J. Garrity, Esquire elaborated by stating that there appeared to be inconsistencies between the Whitpain Township Zoning Code and the Municipalities Planning Code, which governs all zoning in the state of Pennsylvania. The issue of the Protest Against Change provision is not covered at all in the Municipalities Planning Code. It was the opinion of Mr. Garrity that there is no authority for a super-majority provision in either the Municipalities Planning Code or the Second Class Township Code. He added that the code just states that all votes by the Board of Supervisors shall be by a simple majority vote, and to allow that provision to remain in Whitpain Township's Zoning Code could potentially lead the public to believe that they would be protected by a provision that is deemed to be unenforceable.

Following a series of comments and questions from the public, and some additional comments from the Supervisors, a motion was made by Mr. McKernan, duly seconded by Mr. Greco, and unanimously passed to leave the super-majority provision in the Zoning Code of Whitpain Township. For clarification, Mr. Garrity remarked that Ordinance #4-225 was not adopted. It will be amended to have the super-majority section put back in, re-advertised, and another public hearing will be held.

Mr. Young called for comments from the Board. There were none. Mr. Young then called for any comments from the floor. Mr. Bob McDougall had concerns regarding Berkheimer performing tax audits, and he inquired about any safeguards that are in place. Mr. Marcarelli responded by saying that Berkheimer is a well respected firm which specializes in tax collection, and there is a provision that will give the taxpayer recourse by allowing for a hearing if an issue was to arise.

There being no further business to come before the Board, on motion made by Mr. Young, the meeting was adjourned at 9:20 PM.

Respectfully submitted,

Anthony F. Greco, Secretary

