

TOWNSHIP OF WILKINS BOARD OF COMMISSIONERS

REGULAR MEETING, MONDAY, SEPTEMBER 18, 2006

The Regular Meeting of Monday, September 18, 2006 was brought to order at 7:00 PM by President Frank J. Greco. A quorum was present as follows:

Mr. Greco		Mr. Wilson
Mrs. Martinelli	Mr. Padula	Ms. Fialla

(6-174) MOVED WILSON-PADULA to approve the minutes of the meeting of August 14, 2006 with correction: Commissioners' Comments: Sharyn Fialla stated that what she said was that she was questioning whether the Board of Commissioners would be required to authorize any future General Orders prior to the Chief of Police enacting them. The motion was adopted by unanimous roll call vote.

COMMUNICATIONS:

1. Mr. Elias Sejko, Chairman of the Wilkins Township Civil Service Board: Stating that the Civil Service Board met and certified thirteen applicants to be tested for the position of Police Officer. The tentative testing date is September 30, 2006, beginning at 9:30 AM, pending approval of the Board.

(6-175) MOVED WILSON-MARTINELLI to authorize the Civil Service Board to test applicants for the position of full time police officer on Saturday, September 30, 2006, beginning at 9:30 AM. The motion was adopted by unanimous roll call vote.

2. Mr. Peter Nychis, Esquire of the firm of Griffith, McCague and Wallace, P.C., requesting that the Board of Commissioners adopt a resolution for the installation and operation of a traffic signal at the intersection of Rodi Road and Purity Road in Penn Hills.

(6-176) MOVED WILSON-MARTINELLI to adopt Resolution #19-2006, making application to the Commonwealth of Pennsylvania, Department of Transportation for the installation and operation of a traffic light at Rodi Road and Maple Lane. The motion was adopted by unanimous roll call vote.

3. Mrs. Angie Gialloreto, Chair of the Wilkins Township Democratic Committee requesting permission to use the meeting room for a committee meeting on October 12, 2006 beginning at 7:00 PM.

(6-177) MOVED PADULA-FIALLA to authorize the Democratic Committee to use the meeting room on October 12, 2006 for a committee meeting. The motion was adopted by unanimous roll call vote.

CITIZENS' COMMENTS:

Commissioner Martinelli recognized that there were three students in the audience from the Woodland Hills School District this evening and thanked them for their attendance at the meeting.

Prior to the start of Citizens' Comments, Mrs. Bradley announced that there were two additional agenda items under new business that were not on the agenda. At New Business #8, the Recreation Advisory Board was seeking a motion to approve their recommendation to expend \$1,350.00 for the 2006 Pumpkin Patch Party. At New Business #9, a motion is needed to authorize the Solicitor to formulate a consent decree for court approval regarding the Dinbar Development. The public was invited to speak on these issues as well.

Mr. Gary Matta, Solicitor for the Township stated: “At the August 14, 2006 meeting, several citizens expressed concerns regarding the two federal lawsuits currently pending against the Township, one of which is a civil rights lawsuit filed by Police Chief Guthrie. Although the Township’s general policy is not to comment on pending litigation, the Board of Commissioners believes it is appropriate to inform the citizens of recent developments in this case in order to address some of the concerns expressed at last month’s meeting.

In his lawsuit, Chief Guthrie alleges that the Township has violated his free speech rights under the First Amendment, and that it has retaliated against him for whistle-blowing. In June, the Township filed a motion seeking to dismiss portions of Chief Guthrie’s complaint. Since our last meeting, the Court has issued a favorable ruling on the Motion to Dismiss.

Last month, the federal court judge agreed with the Township’s position that Chief Guthrie’s First Amendment claim is largely barred by a recent decision by the United States Supreme Court, in which the Court held that “when public employees make statement pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes and the Constitution does not insulate their communications from employer discipline.” The Supreme Court specifically stated that the First Amendment “does not invest [public employees] with a right to perform their jobs however they see fit.”

Judge Conti agreed that all of Chief Guthrie’s complaints relative to internal mismanagement and “procedural irregularities” are not actionable following the Supreme Court’s decision. This means that all of Chief Guthrie’s claims regarding alleged misconduct by former Chief Wilson, and Ms. Bradley and Mr. Vargo’s alleged interference with his decision-making cannot result in a recovery.

In fact, Judge Conti stated that she might have dismissed Chief Guthrie’s First Amendment claim in its entirety but for one allegation in his Complaint which saved the claim. Specifically, Chief Guthrie alleged that the township passed and enforced an ordinance “restricting employees’ rights to communicate with elected officials about matters of public concern.” Because this allegation potentially implicates Chief Guthrie’s right to speak as a citizen, opposed to his speech as an employee of the Township, Judge Conti believes this alleged violation may be actionable, and has therefore allowed Chief Guthrie to proceed with his First Amendment claim on this very limited basis. Judge Conti emphasized, however, that “any statements made in the course of [his] official duties...are not going to be actionable.

The Court was also largely receptive to the Township’s arguments relative to Chief Guthrie’s whistleblower claim. First, the Township had argued that any actions which occurred more than six months prior to the filing of Guthrie’s lawsuit in May of 2006 are barred by the whistleblower law’s statute of limitations. The court agreed that, prior to trial, the Township could seek dismissal of any alleged “whistleblower” activities which occurred prior to November of 2005. Chief Guthrie has only alleged one incident which falls within this six-month time frame – a five day suspension in November of 2005.

In addition, the judge agreed with two other arguments raised by the Township. Specifically, the Court ruled that “for purposes of this case, there would be no punitive damages that could be awarded for any claim under the Pennsylvania Whistleblower Act and that there is no jury trial on the Whistleblower Act.” The court’s ruling on these issues reduced any risk of a large monetary verdict against the Township to the extent that Chief Guthrie cannot recover any punitive damages, but can only recover his lost wages.

Finally, the court granted the Township's motion to dismiss Commissioners Frank Greco, Sylvia Martinelli and Paul Padula from this lawsuit, finding that Chief Guthrie had not alleged any facts whatsoever which would indicate any individual wrongdoing on their part. Therefore, Commissioners Greco, Martinelli and Padula have been dismissed from the lawsuit.

In conclusion, we believe it is appropriate to update the citizens of Wilkins Township on the Court's initial ruling in the Guthrie case because of the concerns expressed by some citizens at last month's meeting. The court's ruling is a matter of public record. Based on the court's ruling, we believe that the Township's financial exposure due to this litigation is greatly minimized. The Township intends to vigorously defend this case, disputes the claims raised initially in Chief Guthrie's complaint, and continues to dispute the few claims which survived the motion to dismiss."

Mr. Eric Lawson, 176 Penhurst Drive thanked the Board of Commissioners for directing the Department of Public Works to locate the two manholes on his property and for raising these manholes. Also recognized the professionalism of both the volunteer fire companies and police department in their response to his home last Saturday morning when his fire alarm was activated by his clothes dryer. Finally, requested that the Board of Commissioners direct the appropriate Township personnel to locate two 15" storm lines and a catch basin at the rear of his property. Currently, stormwater from Cline and Powell Streets pours over the hillside behind his business. There used to be a catch basin located at the base of the hillside to take in the stormwater, but he cannot locate it. Also requested that the Township remove the fill that they placed on his property.

(6-178) MOVED WILSON-MARTINELLI to direct Mr. Vargo to investigate Mr. Lawson's request to find the catch basin at the rear of his property. The motion was adopted by unanimous roll call vote.

CITIZENS' COMMENTS:

Mrs. Suzy Grant of 100 Larchwood Drive questioned whether the property owners surrounding Lions Park have been notified of the Township's intent to take their property for the proposed Lions Park expansion project. Mr. Padula stated that the Township's proposed expansion project to-date has only included filling-in the ravine. Future plans for expansion are still in the development phase. Mrs. Grant also requested the net profit made at Community Days and stated that the Township should work towards making Community Days a profitable event in order to be able to provide more funds in the Township's volunteer organization.

(6-179) MOVED WILSON-PADULA to waive the reading of reports. The motion was adopted by unanimous roll call vote.

REPORTS:

Police Reports for the month of August 2006:

	2005	2006
Total police calls logged	265	265
Total criminal offenses reported	32	30
Criminal arrests/persons charged	12	6
Criminal offenses cleared	15	8
Traffic citations issued	136	10
Parking tags issued	36	12
Parking citations issued	11	2
Monies collected during August	\$13,457.18	\$2,560.18

Paul Vargo's DPW Report is on file in the Manager's Office.

WTVFD #3 reported the following for August: 15 fires – man hours 89.53, 1 training session – man hours 24.75 and 17 non-incident activities – man hours 214.83. Total man hours – 329.11.

The August 2006 Report for WHEMS is on file with the Fire Department Reports.

Building Permits issued during August 2006:

Two pools – cost \$170.00, Three roofs – cost \$1,600.00,  
One New Home – cost \$200,000.00 (VINCESIAN PLACE)  
Soffer – Bldg #4, Suite 501 – Interior Alteration - cost \$9,859.00  
Shop 'n Save – Sprinkler Alteration – cost \$3,150.00  
Hooters – Exterior Repairs – cost \$1,150.00

Amount received for deed transfers \$7,410.27.

Tax Collectors Report for August 2006:

Balance collectable	\$280,458.82
Deductions	-1,448.23
Adjusted collectable	279,010.59
Less face collections	8,366.57
Exonerations	1,448.23
Balance collectable	270,644.02
Total refunds to date	1,448.23
Face amount of collections	8,366.57
Plus penalties	709.98
Less Discounts	25.35
Total Cash Collected	\$9,051.20

PA Municipal services – Act 511 Taxes for August:

Earned Income Taxes:

Current Month	\$75,414.93	Previous Year	\$78,451.70	Difference
Current YTD	437,406.09	Previous YTD	427,102.81	\$ 10,303.48

Emergency & Municipal Services Tax:

Current Month	48,391.79	Previous Year	3,630.10	Difference
Current YTD	242,542.10	Previous YTD	46,936.45	\$195,605.65

Mercantile Tax:

Current Month	711.16	Previous Year	131.00	Difference
Current YTD	1,102,142.37	Previous YTD	921,369.71	\$180,772.66

Business Privilege Tax:

Current Month	1,844.43	Previous Year	51.00	Difference
Current YTD	177,219.29	Previous YTD	152,905.14	\$24,314.15

The Engineer's Report for August 2006 is on file in the Manager's Office

(6-180) MOVED FIALLA-PADULA to approve the payment of the Schedule of Bills and the Addendum to the Schedule of Bills in the amount of \$227,430.75. The motion was adopted by unanimous roll call vote.

RESOLUTION NO. 18-2006

A RESOLUTION OF THE TOWNSHIP OF WILKINS, ALLEGHENY COUNTY, PENNSYLVANIA, AUTHORIZING THE CONDEMNATION OF CERTAIN PROPERTY LOCATED IN THE TOWNSHIP OF WILKINS, ALLEGHENY COUNTY, PENNSYLVANIA, FOR THE PUBLIC PURPOSE OF THE REPAIR AND MAINTENANCE OF A LANDSLIDE ON OR ABOUT HIGHLAND AVENUE.

- (6-181) MOVED WILSON-PADULA to adopt Resolution #18-2006, authorizing the condemnation of certain property in Wilkins Township for the public purpose of the repair and maintenance of a landslide on or about Highland Avenue. The motion was adopted by unanimous roll call vote.
- (6-182) MOVED WILSON-MARTINELLI to accept the application filed by Officer William Wetzler for a disability retirement from the Wilkins Township Police Department. The motion was adopted by unanimous roll call vote.
- (6-183) MOVED MARTINELLI-PADULA to approve the request of the Wilkins Township Baseball Association for an additional donation of \$1,367.23. The motion was adopted by unanimous roll call vote.
- (6-184) MOVED PADULA-WILSON to set Halloween “Trick or Treat” night in Wilkins Township on Tuesday, October 31, 2006 from 6:00 PM until 8:00 PM. The motion was adopted by unanimous roll call vote.
- (6-185) MOVED WILSON-MARTINELLI to authorize the Manager and Chief of Police to attend a training course entitled “Police Liability Issues” offered by the PSATS on November 16, 2006 from 8:30 AM until 4:00 PM at a cost of \$50.00 per person at the Mountain View Inn in Greensburg. The motion was adopted by unanimous roll call vote.
- (6-186) MOVED PADULA-MARTINELLI to approve the recommendation of Mr. Vargo to purchase a card-key system for the gasoline and diesel pumps at a cost of \$8,126.00 from George I. Reitz and Sons and recommending that the card-key be utilized by vehicle instead of by employee and that if the system provides for the tracking of mileage that we employ that tracking. The motion was adopted by unanimous roll call vote.
- (6-187) MOVED MARTINELLI-FIALLA to accept the recommendation of the Recreation Advisory Committee to contract with Sadecky Puppets to perform at the Wilkins Township Christmas Party on December 16, 2006 at a cost of \$550.00. The motion was adopted by unanimous roll call vote.
- (6-188) MOVED MARTINELLI-WILSON to accept the recommendation of the Recreation Advisory Committee to expend \$1,350.00 on the 2006 Pumpkin Patch Party. The motion was adopted by unanimous roll call vote.
- (6-189) MOVED WILSON-FIALLA to authorize the solicitor to formulate a consent decree for court approval regarding the Dinbar Development. The motion was adopted by unanimous roll call vote.

Commissioners’ Comments:

Commissioner Padula thanked everyone for coming out to the meeting and reminded residents that if they have a street light out, they can call Duquesne Light’s hotline number which is located in the telephone book.

Commissioner Fialla thanked everyone for their attendance and reminded the residents that the Halloween Party will be held at VFD #3 on October 28, 2006 and the Christmas Party will be held on December 16, 2006 at the Elks Club. Also, the next meeting of the Board of Commissioners is scheduled for October 9, 2006.

Commissioner Martinelli thanked those in the audience for making time to come to the meeting and stated that she hoped that the students from Woodland Hills High School had learned something and offered to answer their questions, if any, following the meeting. Also stated that the newspaper recycling is going very well and advised residents that if the bin is full when they are dumping their newspapers into it, they should contact Karen Luffe at the municipal building and she will see to it that the dumpster is emptied.

Commissioner Wilson thanked Eric Lawson for his kind comments regarding the Township's police and firefighters and also stated that there is a street opening that is filled only with binder (about 2" lower than the road surface) at the intersection of Greensburg Pike and Cline Street and requested that Mr. Vargo contact the WPJWA to make the necessary repairs as this area has been in this condition for at least a month.

Commissioner Greco thanked everyone for coming to the meeting.

(6-190) MOVED MARTINELLI-FIALLA to adjourn. The meeting was adjourned at 8:00 PM. The motion was adopted by unanimous roll call vote.

Respectfully submitted,

Rebecca Bradley  
Secretary

