

**THORNBURY TOWNSHIP, CHESTER COUNTY**  
**BOARD OF SUPERVISORS**  
**REGULAR MEETING**  
**MINUTES – May 26, 2009**

**I. CALL TO ORDER**

The regularly scheduled meeting of the Thornbury Township Board of Supervisors was called to order by Ed Travis at 7:10 P.M. in Thornbury Township's meeting room. In attendance were Supervisors Ed Travis, Chairman; Mike Gast, Vice-Chairman; Robert Miller, Percy Neall, Lou Gagliardi Board Members, Kathy Labrum, Esq., Solicitor; and Cary Vargo, Township Manager. An executive session was held before the regularly scheduled meeting to discuss personnel and legal matters. There were 3 signed guests.

**II. WESTTOWN EAST GOSHEN POLICE REPORT – Sergeant Gorman**

Sergeant Gorman presented the April police report. There were 184 calls for service which constituted 16 % of the total calls for the three Townships.

Sergeant Gorman noted that the fatal accident that occurred in April is still under investigation.

Lou Gagliardi inquired about the extent of the police department's involvement on the campus of Cheyney University.

Sergeant Gorman noted that the Pennsylvania State Police is the primary agency providing assistance to the campus; however, the police department is available to provide assistance, if needed.

Lou Gagliardi inquired about having a representative from Cheyney University meet with the Township on a quarterly basis, to provide information on campus happenings.

**III. MANAGER'S REPORT – Cary Vargo**

1. The PA DCED announced that the H2O Sewer Grants that were supposed to have been reviewed and awarded on Thursday May 14, 2009 have been delayed and re-scheduled for review on Tuesday July 14, 2009.
2. Construction on the CVS is winding down with an expected opening mid-June. There were recent traffic issues as a result of the installation of a sidewalk along Route 926 and paving on both 926 and 202; this installation is complete. Yerkes has inspected the interior and has issued a certificate of occupancy for the building. A final site inspection has tentatively been scheduled for Thursday May 28, 2009 at 1:00 p.m.
3. There is an Act 32 Tax Collection seminar scheduled for Thursday May 28, 2009 at the West Chester Holiday Inn at 9:00 – 12:00.
4. There is a DVRPC meeting scheduled for Thursday June 4, 2009 - 4-6 p.m.

5. There is a 202 Executive Committee meeting scheduled for Friday June 5, 2009 at 10:30 a.m.
6. There is a Chester County Landscapes meeting scheduled for Wednesday June 10, 2009 at 7:00 p.m., location – Government Services Center. This information was also forward to the Planning Commission.
7. We requested and were granted an extension for the DCED grant (originally \$75,000). This extension will allow for the completion and payment of the ongoing projects such as the National Registry Nomination, the Existing Conditions Drawings for the Dallet House, and the Historic Marker for the Squire Cheyney Property. Once all ongoing Historic Preservation projects have been completed the grant will be closed out in a timely manner.
8. The Spring/Summer Newsletter is due to be distributed very shortly, keep an eye on the mail for this new issue.
9. Recent maintenance has been completed at the Goose Creek Park. This maintenance included staining and/or painting of the bridge, entrance signage, bollards, and benches to the rear of the park near the large oak tree.
10. A new business is moving into the Commons at Thornbury – Little Anthony’s Pizza. The Grand Opening is expected in several weeks.
11. There is a meeting scheduled for June 2, 2009 re: possible amendments to the Goose Creek Grill lease prior to approving a 5 year extension of the lease. Participants will be John Good, attorney for the operators of the Goose Creek Grill, Kathy Labrum and I.
12. All of the approved improvements have been installed at Route 202 and Greentree Drive.

Jim Jordan commended the Board for the steps taken to improve the traffic signal.

Tom Spackman inquired about the lack of a south-bound acceleration lane exiting the new CVS.

Jim Jordan noted that the exit was evaluated at the Planning Commission and it was designed to deter people from using Brandywine at Thornbury as a cut through.

A discussion ensued about the configuration of the exit, the need for action and possible alternatives.

#### **IV. APPROVAL OF MINUTES**

##### **A. April 14, 2009 (Work Session)**

**Mike Gast motioned to approve the minutes. The motion was seconded by Bob Miller. Mike Gast, Bob Miller, and Ed Travis were in favor. Lou Gagliardi and Percy Neall abstained. Motion carried.**

Lou Gagliardi inquired if the Township had advertised the presence of Congressman Sestak at the work session. Lou asked for additional notification in the future.

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**B. April 21, 2009 (BOS Meeting)**

Mike Gast detailed three changes on page one: (1) Mike Gast attended the meeting via telephone, (2) spelling of Krapf's, and (3) addition of "police officers."

Bob Miller – page 3 – addition of the word "local" in front of legislation.

Lou Gagliardi noted that the 'R' in report should not be capitalized on page 8.

**Lou Gagliardi motioned to approve the minutes with the above changes. The motion was seconded by Percy Neall. All were in favor. Motion carried.**

**V. AGENDA BUSINESS:**

**1. BLUER Presentation – Resolution 2009-7**

Ed Travis noted that the presentation was postponed.

Bob Miller noted that the Westtown East Goshen Police Commission voted to support the BLUER initiative.

Rob Morris requested that the Board reject this resolution, when considered, because he believes it is not a proper use of tax payer funds.

**2. Brinton Village – Approve Plan Amendment, Resolution 2009-8**

Bo Erixson noted that the residents of Brinton Village requested that the proposed tot lot be replaced with a gazebo.

Cary Vargo noted that the Township has been provided with a signed authorization form from every current property owner. All future property owners will also be advised of this change. Benson has provided an updated plan sheet for signature and recording.

**Mike Gast motioned to approve Resolution 2009-8. The motion was seconded by Percy Neall. All were in favor. Motion carried.**

**3. Approval to File Zoning Hearing Board Application – Waln Run Park.**

Mike Conrad presented an overview of the Waln Run Park. Waln Run is a 12.2 acre parcel. In order to develop the park so that all residents have access to the area, a roadway and parking lot must be installed. Due to the configuration of the lot, the sole road frontage lies on Echo Hill Road, where there is no area to permit parking. The access roadway must be laid out on the narrow pole strip, part of which is inside the 100 foot wetlands buffer area. The disturbance in the buffer area will be minimal, and in keeping with the purpose of the Zoning Code to protect the Township's natural resources.

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We would also request approval to submit the plans to the Chester Conservation District.

Cary Vargo noted that the Chester County Conservation District, effective June 1, 2009, will be implementing fees for municipal submissions.

Percy Neall inquired about possible changes in the plans so that the project can move forward, if the requested variances are not granted.

Kathy Labrum noted that the Township does have a hardship, and therefore, the Zoning Hearing Board should grant the variance.

**Bob Miller motioned the approval to file the Zoning Hearing Board application for the Waln Run Park and the submission to the Chester County Conservation District. The motion was seconded by Ed Travis. All were in favor. Motion carried.**

**4. Orleans Preserve at Squire Cheyney Escrow Release # 1-A – Sanitary Sewers, \$206,465.28.**

Cary Vargo noted that this is 1-A of the Escrow Release. These additional funds are for sanitary sewer line items, which required review by Pennoni Associates, on behalf of Thornbury Township, Delaware County. The request has been reviewed and approved by Pennoni Associates and the Thornbury Township, Delaware County Board of Supervisors, in the amount of \$187, 695.71. Yerkes is also recommending the release of \$187, 695.71. This approval will bring the total released thus far to \$1,711,910.76.

**Ed Travis motioned to approve Squire Cheyney Escrow Release # 1-A in the amount of \$187,695.71. The motion was seconded by Bob Miller. Ed Travis, Mike Gast, and Bob Miller were in favor. Lou Gagliardi and Percy Neall opposed. Motion carried.**

**5. Sage Hill Escrow Release # 9, \$41,089.56.**

Cary Vargo noted that escrow release #9, originally dated April 9, 2009 and revised May 20, 2009 is for \$41,089.56. Yerkes is recommending release of the full amount requested, \$41,089.56.

Lou Gagliardi inquired about the status of the project; how far along and when do they expect to be completed.

Cary Vargo noted that the project is approximately 50% completed. Due to the current economy and housing market, projecting a completion date is difficult.

**Mike Gast motioned to approve Sage Hill Escrow Release # 9 for \$41,089.56. The motion was seconded by Percy Neall. All were in favor. Motion carried.**

**6. Approve 2009 Roadway Paving Program – Bid Package.**

Cary Vargo noted he and Mike Aiello recently conducted an evaluation of all Township roadways. Input was also solicited from Township Road Contractor, John Neff. All parties agree that S. Westbourne Road from S. Concord to Sage Hill Drive is the highest priority and is in need of repaving. We can continue to patch, but continued delays will become more costly due to additional repairs that will become necessary. We also would like to get a cost estimate on re-paving the balance of Cheyney Road from 1230 Cheyney Road to Route 926.

Lou Gagliardi expressed concern about re-paving S. Westbourne Road because of continued construction in the Sage Hill sub-division. Lou suggested continued patching until construction has been completed. Lou requested a quote from John Neff for patching the roadway.

Cary Vargo noted continued patching is certainly possible but recommends moving forward with re-paving.

Mike Conrad noted that patch work will extend the life of the roadway another year, but patch work leads to more patch work.

Cary Vargo explained that if the Engineer's cost estimate is consistent with the 2009 budgeted line item for roadway paving, the Engineer will then draw up bid specifications for the recommended work. These bid specifications will be presented to the Board at a future meeting for review and approval to advertise the project.

**Ed Travis motioned to approve the Township Engineers evaluation of the proposed 2009 Roadway Paving Project in order to complete a cost estimate. The motion was seconded by Mike Gast. All were in favor. Motion carried.**

**7. Approve Trustee Appointments to the Pennsylvania Municipalities Pension Trust.**

Cary Vargo noted that PSAT's has requested that the Board approve the appointments of the named trustee's. The term of office for Mr. Jack Walter and Mr. William Groves is for January 1, 2010 thru December 31, 2015.

Lou Gagliardi inquired if anyone knows of either of them.

Percy Neall inquired if they are bonded.

Kathy Labrum noted that they are.

**Mike Gast motioned to approve the Trustee Appointments to the Pennsylvania Municipalities Pension Trust. The motion was seconded by Bob Miller. All were in favor. Motion carried.**

**8. Approval to Forward Correspondence RE: Route 202 – Section 100**

Correspondence had been drafted by Ed Travis and was presented to the Board members for discussion.

Mike Gast stated that the Board needs to become more vocal in expressing their concerns in regards to safety and the need for timely improvements on Section 100 of Route 202.

Lou Gagliardi noted that even our small township can be heard, someone needs to take the lead.

Mike Gast noted that he would like to see the letter posted on the Township's web site and included as an appendix to the minutes of May 26, 2009.

Ed Travis noted the addition of a similarly drafted resolution for the work session scheduled for June 2, 2009.

Cary Vargo asked if the Board members wished the correspondence be sent prior to the consideration of a resolution.

A brief discussion was held with the Board tasking Cary Vargo to send the correspondence immediately, to be followed by a similarly drafted resolution at a later date.

Bob Miller noted that Congressman Sestak made a point that we get local businesses involved in the process.

**Mike Gast motioned the approval of the drafted correspondence, the creation of an appropriate distribution list, the posting of the correspondence on the Township's web site, and an appendix to the minutes of May 26, 2009. The motion was seconded by Ed Travis. All were in favor. Motion carried.**

**VII. PUBLIC COMMENT PERIOD**

Josephine Brackel expressed concern about truck traffic on Creek Road. These trucks are going to and coming from the quarry located in Delaware County.

Bob Miller suggested communicating her concerns with Thornbury Township, Delaware County by attending their board meeting as well.

Cary Vargo stated that Creek Road is State owned and only a small portion of the road lies in Chester County, but he will investigate any and all means that can be used to help the situation.

Tom Spackman noted that the State of Pennsylvania has chosen to close the Brandywine Battlefield Park. Tom asked the Board to express support for the park through written correspondence. Tom offered to forward a draft resolution of support for the Board's review.

Mike Gast noted that we would welcome a draft resolution from Tom to review.

## **VIII. COMMISSION REPORTS**

### **A. Planning Commission – Jim Jordan**

Jim Jordan noted that he submitted a written report to the Board. The Planning Commission is still working on the Riparian Buffer Ordinance. Jim does not believe that the current draft is legal under the Constitution. Jim believes that an aggressive educational program would be better.

Lou Gagliardi inquired about the goal for this process.

Jim Jordan reiterated that he believed the best path would be an educational program for the residents on how to maintain a riparian buffer.

Percy Neall noted that an ordinance would be taking rights away from homeowners; the township already has regulations on the books to protect the riparian buffer.

Bob Miller stated that he wanted the solicitor's opinion on the legality of the ordinance rather than personal opinion.

Jim Jordan noted that he had asked both the Township's previous and current solicitors and there is no case law limiting the Township's ability to enact this ordinance.

Lou Gagliardi inquired if the adoption of this ordinance was recommended in the Comprehensive plan.

Jim Jordan noted that it was recommended that the Planning Commission create a Riparian Buffer ordinance in order to help keep pollution out of our streams and waterways.

Mike Gast noted that he agrees that the educational program is a good idea, but stated that he could not understand why the Planning Commission could not come up with an ordinance to protect the waterways.

Jim Jordan noted that his goal is to see that all water in our Township is protected.

Mike Gast noted that the Board would like the Planning Commission to draft an ordinance that is acceptable and provides protections comparable to those in the Chester Creek Watershed, the Brandywine Creek Watershed and the Ridley Creek Watershed.

Tom Spackman noted that these regulations can be very restrictive; one example is the Birmingham Township ordinance. Tom stated that he would not support an overly strict regulation.

Percy Neall noted that we need to determine what a Riparian Buffer is, before we create an ordinance. Percy also stated that Township residents should be properly compensated for property rights negatively impacted by any Township ordinances.

Bob Miller asked Tom Spackman to provide a copy of a well written ordinance and suggested a work session with the Planning Commission.

**B. Historic Preservation Commission – Cary Vargo**

Cary Vargo noted that Chris Lang is on vacation. Jane Dorchester is finishing the revisions of the National Registry Application and will submit the application shortly. The historic marker for the Squire Cheyney property has been ordered.

**C. Park and Recreation – Percy Neall**

No report

**D. Council of Governments – Mike Gast**

Mike Gast noted that the last meeting was on April 30. Mike Gast was out of town; Ed Travis and Cary Vargo were in attendance.

Ed Travis noted that there were presentations from the local emergency managers and the BLUER team.

Mike Gast noted that discussions continue about the importance of improvements to section 100 of Route 202

The next WCACOG's meeting is scheduled for June 29th, 2009 at the East Bradford Township municipal building.

**E. Cheyney Liaison – Mike Gast**

We will try to have some information on the security issues by our next work session. Work continues on a range of topics such as a Thornbury Township Day on campus.

Lou Gagliardi noted that there should be a better understanding of on campus incidents because of possible implications to surrounding areas of the Township.

**F. Dallet Property**

No Report

**IX. OPERATION REPORTS**

**A. Road Master Report- Cary Vargo**

Cary Vargo noted that Mike Aiello will be deploying the traffic counter shortly.

**B. Approval of Bill List, \$111,399.59 – Bob Miller**

Bob Miller presented the March bill list for \$111,399.59 and reviewed the major expenditures.

**Ed Travis motioned to approve the bill list as presented. Lou Gagliardi seconded the motion. All were in favor. Motion carried.**

**X. OTHER MATTERS**

Lou Gagliardi inquired about the status of negotiations with Westtown and East Goshen Township's.

Bob Miller noted that a meeting will be scheduled shortly.

Lou Gagliardi stated that he does not believe that the State Police is a viable option. I also think it is in our best interest to evaluate other options.

Ed Travis presented Resolution 2009-9, increasing the rate of compensation for the Township Administrative Secretary to \$17.57/hr., effective June 1, 2009.

**Ed Travis motioned to approve Resolution 2009-9. Mike Gast seconded the motion. All were in favor. Motion carried.**

**XI. ADJOURNMENT**

**Lou Gagliardi motioned to adjourn the meeting. Percy Neall seconded the motion. All were in favor. Motion carried.**

Respectfully Submitted,

Cary B. Vargo  
Township Manager/Secretary

**THORNBURY TOWNSHIP  
CHESTER COUNTY**

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May 26, 2009

Mr. Ronald Bailey, Director  
Chester County Planning Commission  
601 Westtown Road  
Suite #270  
P.O. Box 2747  
West Chester, PA 19380

RE: Prioritization of Section 100 – Route 202

The Issue – Section 100 of the Route 202 Improvement Project

Traffic issues in Thornbury Township, Chester County have reached crisis proportions. The safety of our residents and other motorists using Section 100 of Route 202 is seriously compromised, and the increases in our neighborhood traffic flows, caused by motorists trying to circumvent delays on this section of the highway, are at critical levels. We the undersigned Supervisors of Thornbury Township, Chester County, urge you to exert maximum influence to raise the priority of Section 100 of the Route 202 Improvement Project. We believe it is essential that the priority reflected in the Transportation Improvement Plan (TIP) be as high as possible so that federal funds will be allocated to Pennsylvania for this project. We also believe that it is essential that funding for this project be given priority treatment and not be delayed.

Safety Concerns

Section 100 is the only portion of Route 202 in Pennsylvania between the Delaware state line and King of Prussia containing signalized intersections. The traffic signals interrupt the continuous flow of traffic, encourage motorists to detour onto residential roadways to avoid backups at the traffic signals, and make the signalized intersections dangerous due to motorists running red lights, speeding, and the inability to stop for red lights due to the failure to give full attention to existing conditions.

In the short section of Route 202 that resides in Thornbury Township (a stretch of only about 0.6 miles) there are two such intersections. In the last nine months, there have been two fatal motor vehicle collisions at one of these intersections. Another fatal collision occurred at the other intersection several years ago. At least two other fatal collisions have occurred at the next intersection to the south (which is in Birmingham Township) also within the last several years. In addition, the problems at these intersections continue to lead to numerous major non-fatal accidents that involve property damage and physical injuries.

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As a Township we have independently taken those steps that we can to make our intersections as safe as possible – installed battery backup systems that will keep the traffic signals operating for 12 hours during a power outage, installed strobe lights in the red traffic signals at one of the intersections to make them more visible, installed advanced, flashing caution signs to draw motorists’ attention to an upcoming traffic light, removed vegetation from the roadside to improve visibility, and installed a Wavetronix Digital Wave Radar System to help manage the phasing of the traffic signal during times when the system senses that a vehicle or vehicles will not be able to safely stop upon approach of the intersection. It is now time for PennDOT and the DVRPC to do their part to end the appalling carnage that this failed Section of Route 202 has spawned.

### Definition, Funding and Execution Issues

The Route 202 Section 100 Project has been in the TIP since at least FY 1999 (FY 1999 is the oldest TIP on the DVRPC web site).

The title of the project has changed over time. In the TIPs for FY 1999 through FY 2003 the project title was “US202 (Section 100).” In the TIPs for FY 2005 through FY 2009 the project title changed to “US 202 (Section 100 Design) (ES1).” The meaning of this change is unclear – will there be other projects/sub-projects defined for the construction phase or is the construction phase so far in the future that the TIP cannot address it? What are the funding implications of this titular change? Most importantly, what changes in timing for execution of the project does this imply?

The project description has also been modified as time has passed. In the TIPs for FY 1999 through FY 2007 the project description was “Matlack Street to Delaware State Line Traffic Flow Improvements.” In the TIP for FY 2009 the project description changed to “ Matlack Street to Delaware State Line Roadway New Capacity.” The narrative in the in the 2009 TIP states the project will “address congestion and deficiencies in the existing transportation network.” Hopefully it will continue to address traffic flow improvements as well.

Funding for this project has been programmed in fits and starts. In some cases funds have been reallocated to other projects deemed to have a higher priority and the timing of the funding reassigned. In the 1999 TIP funding was programmed for Preliminary Engineering in FY99 and Final Design in FY01. The TIP for FY 2001 moved the Preliminary Engineering funding to FY02 but contained no additional funding for Design. The FY 2003 TIP had no funding at all for this project.

The FY 2005 TIP restored some Preliminary Engineering funds for FY 2005 with Final Design funds available in FY 2008. The FY 2007 TIP pushed back the allocation of some Preliminary Engineering funds to FY 2008 and Final Design funds to FY 2010. These timeframes have come and gone, and still there has been no activity to help resolve the dangerous problems associated with this roadway.

The FY 2009 TIP had funding for Final Design, but even these funds are not allocated until 2012. To date, no funding has actually been designated or spent on even a single shovel of physical repair or revision on this Section of the highway.

Finally, for the five years prior to calendar year 2008, PennDOT attempted to gain approval of an Environmental Impact Statement for Section 100 (TIPs from FY 2003 through FY 2009 state that this project is in the draft environmental impact statement phase and no further funds will be programmed until the conclusion of the DEIS). The DEIS was never formally approved. The FY 2009 TIP did not program any funding until 2012 when it allocated \$3 million for final design activities. Then last summer, the state decided the current preliminary design of the roadway and intersection improvements was too expensive and that work on preliminary design would have to be re-initiated. It described its new design as comprising elements that are right-sized but with intersections that will not be grade separated. And the project will be comprised of smaller sub-projects none of which will be large enough to require an environmental impact statement.

In summary, the Preliminary Engineering that was initially scheduled for completion by FY 2001 has never actually been completed and funding for Final Design has been re-programmed from FY 2001 until FY2012. This appalling in-attention to the needs of residents and motorists along this dangerous section of Route 202 continues to place the citizens of Southeastern Pennsylvania at risk, while PennDOT and the DVRPC continue to downplay the importance of this project.

#### Final Observations – The Bottom Line

We believe that this project is critically important for the safety and the traffic flow needs of both our township and the region through which Route 202 passes. Its expedited design and construction will improve the quality of life of the residential areas of the township by reducing the cut through traffic that results from motorists trying to avoid the current backups at traffic signals. It will also improve the safety on the roadway by creating a more continuous flow of traffic with fewer opportunities for major accidents at a number of different intersections.

There are only a certain number of safety improvements we can make as a township. We have done everything in our power to protect the lives of our residents and those of the many motorists using this Section of Route 202. The State needs to step up sooner rather than later to re-design this stretch of Route 202 to make it a safer highway on which to travel.

We would urge that the total project be broken into manageable pieces (as was done for Section 300) with priority given to the re-designing and re-configuring of the major intersections to create a more continuous flow of traffic on Route 202. We urge that this be done expeditiously and with the highest possible priority. It truly has become a matter of life and death.

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Ed Travis, Chairman

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Michael Gast, Vice-Chairman

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Robert Miller, Supervisor

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Lou Gagliardi, Supervisor

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Percy Neall, Supervisor

Copy: United States Senator Arlen Specter  
United States Senator Robert P. Casey Jr.  
Congressman Joe Sestak, 7<sup>th</sup> Congressional District  
Congressman Joseph Pitts, 16<sup>th</sup> Congressional District  
Honorable Edward G. Rendell, Governor Pennsylvania  
Mr. Allen D. Biehler P.E., Pennsylvania Secretary of Transportation  
State Senator Dominic Pileggi, 9<sup>th</sup> District  
State Senator Edwin Erickson, 26<sup>th</sup> District  
Representative Steven Barrar, 160<sup>th</sup> Legislative District  
Representative Thomas H. Killion, 168<sup>th</sup> Legislative District  
Representative Barbara McIlvaine Smith, 156<sup>th</sup> Legislative District  
Representative Chris Ross, 158<sup>th</sup> Legislative District  
Mr. Terence Farrell, Chester County Commissioner  
Ms. Carol Aichele, Chester County Commissioner  
Ms. Kathi Cozzone, Chester County Commissioner  
Mr. Barry Seymour, Executive Director DVRPC  
Mr. Les Toaso, PennDot District 6 Executive  
Mr. Michael E. Herron, TMAcc Executive Director  
Ms. Natasha Goguts, Chester County Planning Commission  
Chief John Dumond, Westtown East-Goshen Regional Police Department  
Ms. Susan L. Bayne, West Chester Borough  
Mr. Ernie McNeely, West Chester Borough  
Ms. Carol R. DeWolf, Westtown Township  
Mr. Robert Layman, Westtown Township  
Ms. Patricia B. McIlvaine, West Goshen Township  
Mr. Casey Lalonde, West Goshen Township  
Dr. Thomas A. Egan, East Bradford Township  
Mr. Michael P. Lynch, East Bradford Township  
Mr. John L. Conklin, Birmingham Township  
Mr. Dominic A. Pileggi, Concord Township  
Mr. Robert J. Willert, Concord Township  
Mr. George Thorpe, Chadds Ford Township  
Mr. Joseph Barakat, Chadds Ford Township