

## Ethics and Transparency in Township Business Deals – Part I

**[Note: Due to the importance and complexity of this issue, it cannot be fully covered in one white paper. This is the first of several white papers the TTDems will provide on related topics.]**

**Issue:** Are township business deals negotiated in the best interest of all residents, or are certain groups given preferential treatment due to relationships, political contributions, and party affiliation?

**Our Position:** Members of Township boards and authorities, particularly the Board of Supervisors, should be held to the highest ethical standards, and should avoid even the appearance of conflicts of interest in all business dealings. Therefore, we call for all members of Township boards and authorities to adhere to the following principles:

**Ethics:** Article IX, § C-63 of Chapter C of the Tredyffrin Township Charter reads (in part): “Conflict of interest. A. No elected or appointed official of the township shall: (1) Engage in any activity or take any action by virtue of his official position from which activity or action the official, or any other person or entity in whose welfare the official is interested, shall benefit or realize a gain or advantage... (2) Solicit or accept, directly or indirectly, any gift, favor, service, commission or other consideration that might reasonably tend to influence that official in the discharge of the duties of office. (3) Seek to influence, directly or indirectly, the awarding of any contract where such official is interested or would benefit directly, financially or otherwise, from said contract...” We believe that members of Township boards and authorities, and the Board of Supervisors in particular, have an ethical obligation to go above and beyond this regulation to avoid EVEN THE APPEARANCE of a conflict of interest, regardless of whether the activity is technically legal or not.

**Transparency:** Concerned citizens should be able to fully understand the activities of the Township, rather than permitting Township dealings to be cloaked in secrecy. We believe that transparency includes, but is not limited to, providing citizens with:

- ❖ Information about important meetings of Township boards and authorities and the issues under discussion.
- ❖ An easy and convenient way to request and receive all relevant government documents.
- ❖ Input into Township decisions and rule making.

As it relates to this issue, we believe that the residents of Tredyffrin have a right to know the true nature of any relationship between any person or group with whom the Township is doing business and any member of Township boards and authorities who have any decision-making authority over their dealings with the Township. Furthermore, Township residents have a right to expect that any business deal entered into by Township authorities is conducted for the benefit of the Township as a whole rather than any individual or group.

**Background:** On May 22, 2006, the Board of Supervisors enacted Ordinance HR-353, which directed the Township to acquire a parcel of land located at 1375 Swedesford Road for a price not to exceed \$825,000. This property had been acquired by an entity known as Valley Creek Associates in three separate purchases for \$267,000 (\$90,000; \$20,000 and \$157,000) in the

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summer of 1986. The property is approximately 5.72 acres and is located at the intersection of Duportail and Swedesford Roads at the southbound on-ramp to Route 202. Valley Creek originally wanted to develop a hotel on the property. The hotel project did not meet zoning and zoning was denied. They next decided to develop 12 homes on the property. Litigation ensued concerning the appropriateness of the zoning so the owners could develop the property for homes. The litigation was partially successful. However, the site has a steep embankment and 645 feet of stream. Research conducted by Supervisors Drucker and DiFelicianantonio indicates that only two homes could be built on the site under current zoning and environmental laws. The owners believed they were not bound by the current rules due to both the litigation and their right to be grandfathered to the requirements that were in place when they started the litigation.

During the May 22 meeting, Supervisor DeHaven suggested that the property is valuable for open space, fishing and storm water protection. DiFelicianantonio expressed that the property was too steeply sloped to act as a reasonable storm water buffer, and Drucker was not impressed by its recreational value. Regardless, Supervisors Drucker and Difelicianantonio are strong supporters of open space in the township and would have supported the proposal if the price had been reasonable. Several factors led them to believe that this was not the case:

- ❖ There was public comment from a land use expert and a real estate appraiser questioning the value of the property.
- ❖ The appraised value of \$975,000 was based on a supposedly comparable property on Bair Road that was nothing like the property in question.
- ❖ The cost to the owners to litigate and develop the lots would have been significant and they believed that the owners would not be able to develop the 12 homes they wanted in any case.
- ❖ The location next to Route 202 is less than ideal for a residential property.

Nonetheless, the Board passed the ordinance 5-2 along party lines. Afterwards, several meeting attendees heard one of our Republican supervisors express his hope that the land would be worth what they paid for it someday (for more information about this incident, please see “Tredyffrin Supervisors Spar over Open-Space Purchase”, *Suburban & Wayne Times*, 5/25/06: [http://www.zwire.com/site/index.cfm?newsid=16686520&BRD=1677&PAG=461&dept\\_id=82745&rfti=8](http://www.zwire.com/site/index.cfm?newsid=16686520&BRD=1677&PAG=461&dept_id=82745&rfti=8)).

Supervisor Drucker investigated further and found that Valley Creek Associates is owned by Brian McElwee and Richard Ireland. McElwee and Ireland are major contributors to a wide variety of overwhelmingly Republican candidates and organizations personally, through business entities that they control, and also through various PACs that they control such as Concerned Citizens for Fiscal Responsibility (CCFR). For example, the *Inquirer* reported on February 7, 2004 that the CCFR had contributed \$1,400,000 primarily to Republican candidates in the prior three years and had contributed \$47,000 to the Chester County Republican Party alone (“Pension Decision Reaffirmed”). The TTDems are currently researching the exact extent of McElwee and Ireland’s contribution to local Republican candidates and organizations, and of course we will report on our findings as soon as they are complete. We do know that CCFR has a documented history of flouting campaign finance laws to curry favor with government officials. According to the *Cleveland Plain Dealer* (“Another Wink at the Law,” 10/27/02), the CCFR gave \$58,000 in contributions to various Ohio GOP entities, and in turn were awarded a \$42 million tobacco

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settlement contract for one of their business interests. While none of this is necessarily illegal, McElwee and Ireland did violate an Ohio campaign law that limits individual contributions to a PAC to \$5000 by contributing over \$350,000 to CCFR in 2002 alone.

This background leads to some obvious questions: Why were the Republican Supervisors willing to pay \$825,000 for a piece of property without knowing how many, if any, houses could be built in that location? Without this information, how were the Republican Supervisors able to arrive at a correct value of the property? Why was the Board willing to buy this property without knowing its correct value? Finally, what is the nature of the relationship between McElwee, Ireland, and the Republicans on our Board of Supervisors?

If you have any questions or comments about this issue, please contact Maria Micolucci, Chair, Tredyffrin Township Democratic Committee ([info@ttdems.com](mailto:info@ttdems.com)). Specific references for any of the information contained in this white paper are available on request.