

The Whitpain Township Board of Supervisors has scheduled a public hearing for Tuesday, November 17, 2015 at 8 p.m. at the Whitpain Township Building, 960 Wentz Road, Blue Bell, PA 19422 to consider enactment of the following ordinance. Persons with a disability who wish to attend the Administrative Hearing should contact the ADA Coordinator at 610-277-2400. Copies of the proposed ordinance are available at the Township Administration Building during the normal business hours of 8:30 a.m. to 4:30 p.m., Monday through Friday.

**BOARD OF SUPERVISORS
WHITPAIN TOWNSHIP**

MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. 343

“Fire Company Radio Acquisition Ordinance”

AN ORDINANCE THAT APPROVES CERTAIN CAPITAL PROJECTS; AUTHORIZES A BORROWING BY WHITPAIN TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA (THE “TOWNSHIP”) FROM THE COUNTY OF MONTGOMERY, PENNSYLVANIA (THE “COUNTY”) AND THE ISSUANCE OF A PROMISSORY NOTE, 2015 SERIES (THE “2015 FIRE CO. NOTE”) IN THE MAXIMUM PRINCIPAL AMOUNT OF \$152,565.88; APPROVES THE SUBSTANTIAL FORM OF THE 2015 FIRE CO. NOTE AND APPROVES THE EXECUTION OF THE 2015 FIRE CO. NOTE AND DELIVERY OF THE 2015 FIRE CO. NOTE TO THE COUNTY; AUTHORIZES EXECUTION AND DELIVERY OF ALL OTHER NECESSARY DOCUMENTS; STATES THE AMORTIZATION SCHEDULE FOR THE 2015 FIRE CO. NOTE; STATES THAT THE TOWNSHIP IS OBLIGATED TO MAKE PAYMENTS ON THE 2015 FIRE CO. NOTE ONLY FROM FUNDS IF AND TO THE EXTENT APPROPRIATED FOR THE THEN CURRENT FISCAL YEAR OF THE TOWNSHIP; AUTHORIZES ANY PAYMENTS MADE ON THE 2015 FIRE CO. NOTE TO BE MADE AS DIRECTED BY THE DELAWARE VALLEY REGIONAL FINANCE AUTHORITY WHICH HAS BEEN APPOINTED AS COLLECTION AGENT FOR THE COUNTY; AND REPEALS INCONSISTENT ORDINANCES.

WHEREAS, Whitpain Township, Montgomery County, Pennsylvania (the “Township”) is a second class township and a local government unit of the Commonwealth of Pennsylvania (the “Commonwealth”); and

WHEREAS, the County of Montgomery, Pennsylvania (the “County”) has entered into a Bulk Purchasing Agreement with Motorola Solutions, Inc. (“Motorola”) with respect to emergency radio equipment and services; and

WHEREAS, the County has made available to municipalities within the County, the ability to purchase from Motorola emergency radio equipment at a discount, and has further

agreed to provide an interest-free loan (the “Loan”) from funds borrowed by the County from the Delaware Valley Regional Finance Authority (“DelVal”) to any municipality that desires to purchase such emergency radio equipment through the County arranged Bulk Purchasing Agreement; and

WHEREAS, the Township desires to receive the Loan from the County and issue a Promissory Note, Series 2015 (the “2015 Fire Co. Note”) to the County to evidence its obligations under the Loan in order to: (i) purchase certain radio equipment and services for the Centre Square Fire Company and emergency personnel; and (ii) pay of costs of issuance incurred by the Township in connection with the Bulk Purchasing Agreement and the 2015 Fire Co. Note (collectively, the “2015 Project”); and

WHEREAS, the payments due on the 2015 Fire Co. Note are subject to annual appropriation by the Township, will not constitute a debt or general obligation of the Township and will be a current expense solely payable from funds appropriated and lawfully available for such use during the then current fiscal year of the Township; and

WHEREAS, the 2015 Project will benefit the health and welfare of the residents of the Township; and

WHEREAS, the 2015 Project shall be for the benefit and use of the general public, and no private party shall have any special legal entitlement to the beneficial use of the 2015 Project, through a lease, management contract, or any other arrangement that would result in a private business use under the Internal Revenue Code of 1986, as amended; and

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Board of Supervisors of Whitpain Township, Montgomery County, Pennsylvania as follows:

SECTION I. – Approval of the 2015 Project and Authorization to Issue the 2015 Fire Co. Note

The Board of Supervisors (the “Board”) hereby authorizes and approves the 2015 Project. The Board hereby authorizes and approves the Loan from the County in the maximum principal amount of One Hundred Fifty-two Thousand Five Hundred Sixty-five and 88/100 Dollars (\$152,565.88), as evidenced by the issuance of the 2015 Fire Co. Note.

SECTION II. – Approval of the Forms of the 2015 Fire Co. Note and Authorization to Execute and Deliver All Necessary Documents

The substantial form of the 2015 Fire Co. Note, attached hereto as Exhibit “A”, is hereby approved. The Chairman of the Board, and the Secretary (collectively, the “Authorized Officers”) are hereby authorized and directed to execute and deliver the 2015 Fire Co. Note, in the substantial form attached hereto, but with such alterations, deletions and additions as the Authorized Officers may approve (such approval to be conclusively established by the execution of the 2015 Fire Co. Note by the Authorized Officers). The Authorized Officers also are hereby authorized and directed (i) to execute and deliver such other certificates, instruments, and agreements (including those required by DelVal or otherwise related to the 2015 Fire Co. Note) and (ii) to take all actions that may be necessary or beneficial to issue the 2015 Fire Co. Note.

SECTION III. – Amortization Schedule

The indebtedness of the 2015 Fire Co. Note shall be a current expense subject to annual appropriation by the Township and payable solely from funds lawfully available for such use during the then current fiscal year of the Township and shall be evidenced by the 2015 Fire Co. Note in the maximum principal amount of One Hundred Fifty-two Thousand Five Hundred

Sixty-five and 88/100 Dollars (\$152,565.88). The 2015 Fire Co. Note shall not bear interest. The 2015 Fire Co. Note shall be subject to optional redemption by the Township as set forth in the 2015 Fire Co. Note. The amortization schedule of the principal payments under the 2015 Fire Co. Note (the “Loan Principal”) is shown below:

Fire Co. Promissory Note, 2015 Series

Principal Amortization Schedule

2016 - \$30,513.18

2017 - \$30,513.18

2018 - \$30,513.18

2019 - \$30,513.17

2020 - \$30,513.17

SECTION IV. – Current Expense

Payments due on the 2015 Fire Co. Notes are a current expense, subject to annual appropriation by the Township, payable solely from funds lawfully available to the Township for such purpose during the then current fiscal year of the Township. The obligations of the Township to pay the Loan Principal under the 2015 Fire Co. Note (and any other sums due thereunder) do not constitute a lien or charge upon the funds of the Township beyond the fiscal year for which the Township has appropriated money to pay the Loan Principal (and any other sums due thereunder) and that the obligations of the Township under the 2015 Fire Co. Note do not constitute a debt or general obligation of the Township. Neither the full faith and credit nor the taxing power of the Township or of any other political subdivision of the Commonwealth has been or will be pledged to the payment of the Loan Principal (and any other sums due thereunder).

SECTION V. – ACH Debt Authorization

The Township hereby authorizes payments on the 2015 Fire Co. Note to be made by ACH Debit Authorization to Wells Fargo Bank, N.A., acting as co-Trustee for DelVal, the collection agent of the County with respect to the 2015 Fire Co. Note. The Authorized Officers are hereby authorized and directed to execute and deliver the ACH Debit Authorization form, the IRS Form W-9 and such other certificates, instruments, and agreements as may be required for purposes of making payments on the 2015 Fire Co. Note.

SECTION VI. – Severability

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION VII. – Failure to Enforce not a Waiver

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION VIII. – Effective Date

This Ordinance shall take effect and be in force from and after its approval as required by the law.

SECTION IX. – Repealer

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed.

ORDAINED and ENACTED by the Board of Supervisors of Whitpain Township,
Montgomery County, Pennsylvania, this 17th day of November, 2015.

**WHITPAIN TOWNSHIP
BOARD OF SUPERVISORS**

By: _____
Frederick R. Conner, Jr., Chairman

Attest: _____
Anthony F. Greco, Secretary

DRAFT

FORM OF 2015 FIRE CO. NOTE

DRAFT

EXHIBIT "A"

NOTICE

NOTICE is hereby given that the Board of Supervisors of Whitpain Township, at its public meeting on November 17, 2015 at 8 P.M. in the Township Building, 960 Wentz Road, Blue Bell, Pennsylvania, will hold a public hearing on and could vote to adopt Ordinance No. 343 entitled "Fire Company Radio Acquisition Ordinance", that approves certain capital projects; authorizes a borrowing by Whitpain Township, Montgomery County, Pennsylvania (the "Township") from the County of Montgomery, Pennsylvania (the "County") and the issuance of a promissory note, 2015 series (the "2015 Fire Co. Note") in the maximum principal amount of \$152,565.88; approves the substantial form of the 2015 Fire Co. Note and approves the execution of the 2015 Fire Co. Note and delivery of the 2015 Fire Co. Note to the County; authorizes execution and delivery of all other necessary documents; states the amortization schedule for the 2015 Fire Co. Note; states that the Township is obligated to make payments on the 2015 Fire Co. Note only from funds if and to the extent appropriated for the then current fiscal year of the Township; authorizes any payments made on the 2015 Fire Co. Note to be as made directed by the Delaware Valley Regional Finance Authority which has been appointed as collection agent for the County; and repeals inconsistent ordinances.

Copies of the full text of the proposed ordinance are available for examination during normal business hours at the offices of *The Times Herald*, 410 Markley Street, Norristown, Pennsylvania 19404, the Montgomery County Law Library, Court House, Norristown, Pennsylvania 19401 and the Whitpain Township Building, 960 Wentz Road, Blue Bell, Pennsylvania 19422 where a copy of the proposed ordinance may be obtained for a charge not greater than the cost thereof.

**JAMES J. GARRITY, ESQUIRE
ANDREW R. FREIMUTH, ESQUIRE
WISLER PEARLSTINE, LLP**

Solicitors for Whitpain Township