

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
September 24, 2013 Approved minutes
6:30 PM

Call to order, silent meditation, and pledge of allegiance.

IN ATTENDANCE: Chris Makely, Chairman; Mark Toth, Vice Chairman; Chris Amentas, Member; Ed Porter, Member; Joe Pomorski, Member; Denise Miller, Township Secretary; Rosemary Moore, Township Treasurer; Vince Pompo, Township Solicitor.

APPROVAL OF MINUTES:

August 13, 2013 special workshop minutes – Mr. Makely made a motion to approve the August 13, 2013 special workshop meeting minutes as presented. Mr. Toth seconded. Vote: Unanimous.

August 27, 2013 Board minutes – Mr. Makely made a motion to approve the August 27, 2013 Board minutes as presented. Mr. Toth seconded. Vote: Unanimous.

September 10, 2013 workshop minutes – Mr. Makely made a motion to approve the September 10, 2013 workshop minutes as presented. Mr. Toth seconded. Vote: Unanimous.

LEGAL ISSUES:

Act 167 Update – Mr. Jamie MacCombie presented the Board with his recommendations on the Act 167 Plan draft ordinance. Mr. Porter asked Mr. Pompo what would be the consequence if the Board does not adopt this ordinance. Mr. Pompo replied that the Department of Environmental Protection and Department of Conservation and Natural Resources could constrict funding.

Mr. Pompo asked Mr. MacCombie if this ordinance helps the township or assists in being a little more stringent, relative to issues that could result from developers who are coming into the township to do a larger project. Mr. MacCombie replied absolutely, because some of the parameters in the ordinance are typical to what people are going to. It's currently crafted for all new development, other than a re-development, so basically if you have a property from scratch and if you want to develop it you have to take the best case scenario of the existing vegetated cover. Mr. Porter asked if this ordinance would apply to existing developments with problems. Mr. MacCombie replied that, his perspective is, once this ordinance is passed it cannot have an effect on previously approved regulations, with the caveat if there's five years of vesting of that property expires, they would be obligated to apply with the new ordinance, but if for some reason the property lies dormant and wasn't developed, his professional opinion is that if they lost their five years of vesting, they would have to comply with the ordinance. The Board agreed to authorize Mr. Pompo and Mr. MacCombie to move forward with the Act 167 Plan Ordinance, and present it to the Board before it goes to the County Planning Commission. Mr. Pompo stated that he will have a revised draft ordinance, to the Board, for their October 8, 2013 workshop meeting.

Act 537 Sewage Facilities Plan update – Mr. Porter stated that Ray Ott, Landscape Architect, stated that you should wait until the comprehensive plan is completed before you do your Act 537 Sewage Facilities Plan. Mr. Pompo stated that the Land Use Plan, Zoning, and the Act 537 Plan are supposed to be consistent. Mr. Makely made a motion to approve the task force activity report, in the amount of \$54,990.00, provided by Jamie MacCombie P.E., and authorize him to proceed with the Act 537 Sewage Facilities Plan as appropriate. Mr. Toth seconded. Mr. Porter nae. Mr. Makely, Mr. Amentas, Mr. Pomorski, and Mr. Toth voted yea. Vote passed.

Northwoods Development acceptance of dedication of public improvements and final release – Mr. Makely asked Mr. Della Penna if Mr. Moser had everything completed on his punch list. Mr. Della Penna replied that everything has been completed except one lot does not have a house on it, which is not a public improvement. Mr. Makely made a motion to adopt Resolution 2013-08 accepting dedication of North Sidesaddle Lane and Liberty Circle, from West Chester Road Development, LP. Mr. Toth seconded. Vote: Unanimous.

Mr. Porter asked Mr. Moser about the funds due for the West Chester/South Caln Road project. Mr. Pompo replied that Mr. Moser has committed to paying \$90,000.00. Mr. Moser also stated that once he gets his final release he will have his bank send the township a check. Mr. Porter also asked if this money will be released to the township without any contingencies. Mr. Pompo replied that the money will be released to the township without any contingencies, as long as the money comes

back to the township, and according to the letter that Mr. Moser just handed him, directing Mr. Moser's bank to pay East Fallowfield Township. Mr. Moser replied "with the contingency that the township dedicates the roads."

Northwoods Development approval of Maintenance Agreement and Maintenance Guarantee – Mr. Makely made a motion to enter into the Maintenance Agreement and Maintenance Financial Security Agreement between West Chester Road Development, LP and East Fallowfield Township. Mr. Toth seconded. Buddy Rhoades made several comments on the motion. Vote: Unanimous.

Northwoods Development final release of financial security – Mr. Makely made a motion to approve escrow release #11 in the amount of \$329,111.65 with remaining financial security for the Northwoods Development, upon the recommendation of the Township Engineer, subject to the payment of all outstanding invoices and receipt by the Township of West Chester and South Caln Roads Improvement Agreement contributions in the amount of \$90,000.00. Mr. Toth seconded. Mr. Moser stated that the release amount is \$329,117.65. Mr. Makely amended his motion to reflect release amount \$329,117.65. Mr. Toth seconded. Vote: Unanimous.

Mr. Amentas asked the balance of the West Chester/South Caln project fund. Mr. Pompo replied that there is still money owed from Mr. Moser for Ridgecrest Development. Mr. Toth asked if Ridgecrest Development is the smallest amount still outstanding. Mr. Pompo replied that Statnick's development is the smallest amount outstanding. Mr. Pompo also stated that the last thing he did, on this project, was to draft a proposed termination letter which would take the developers out of it and have the township use the funds. Mr. Pompo stated that the Board decided not to send the letter out. Mr. Pompo suggested that Rosemary get the total amount, of the fund, along with the draft termination letter and present it to the Board at the next workshop. Mr. Amentas stated that at the very least the township should be hiring a firm to figure out the best plan for this project. Mr. Porter stated that there was a plan that wouldn't work, because it involved a property that is not willing to sell to the township and no one will do imminent domain on them. Mr. Porter asked Mr. Della Penna his opinion on moving forward with a plan. Mr. Della Penna recommended a Traffic Engineer. Mr. Porter asked Mr. Pompo the extent of what Dewey Homes ("Dewey") is responsible for. Mr. Pompo replied that "Dewey", according to the township agreement, is responsible to perform the work once the money has been collected. The Board directed Mrs. Miller to put further discussion on this matter on the October 8, 2013 workshop agenda.

CITIZENS BY REQUEST:

Alexander and Quinchetta Ocran of 100 N. Anchor Way – Mrs. Ocran asked the Board to forgive her trash late fees and reinstate the discount amount because she sent her bill in time. Mrs. Miller replied that the payment was sent to the office, which is incorrect, and the check was not signed. Mrs. Miller also stated that Mrs. Ocran spoke with the township office and Munibilling on different occasions and as of today the invoice is still not paid. The Board agreed to waive the late fees and reinstated the discount and directed Mrs. Moore to do so. Mr. Porter stated that next year the billing company will scan the check and envelope, showing the postmark date.

Paul Heuman of 22 Hunter Road – Mr. Heuman was not in attendance.

Charles Kilgore of 1215 South Caln Road – Mr. Della Penna stated that when he, Mr. Makely, and Tag, Public Works Director, inspected Mr. Kilgore's property they saw stones along the road washing out, which Tag will repair by replacing the stones with large stones. Mr. Kilgore stated that he asked Tag to fix his driveway damage. Mr. Makely replied that he will speak with Tag tomorrow. Mr. Kilgore also stated that it's dangerous pulling out his driveway because the speed limit is 45 and he has a blind driveway. Mr. Amentas asked Mr. Pompo if the township is obligated to fix conditions necessarily in the right of way. Mr. Pompo replied not per se; there has to be some relevance to the public road or some connection to the stormwater off a public road. The township doesn't normally have responsibility for the driveway connection to a public road.

SOLICITOR REPORT:

Mr. Pompo stated that he contacted the School District, per Mr. Toth's request, to get the status of their intention on the construction of the public restroom that would be part of the proposed pump station in the park. Mr. Kurowski said that the School District is willing to pay for the restroom portion of the pump station, and they would like to work with the township and the Park and Recreation Committee on the cost. Mr. Kurowski also stated that he will follow up with something, in writing, before the next township meeting.

LEGAL ISSUES:

Township Insurance – Mr. Makely made a motion to approve a contract with Benecon Insurance, and further authorize Mrs. Moore to contact Benecon Insurance to get said contract for the Board to sign. Mr. Porter seconded. Mr. Makely withdrew

his motion after Mr. Amentas's comments. Mr. Makely made a motion to appoint Mrs. Moore to contact Benecon to get a copy of the contract for the Board to review.

Comcast Franchise Renewal – Mr. Pompo informed the Board that the last contract was approved by the Board in 2011 however it covered 2006-2016. Mr. Pompo stated that the Board has six months, from the cable company notice, to initiate a public notice that would initiate a public proceeding in which you identify what your future cable needs are, and you review the performance of the cable operator. After the proceeding you have to go back to the cable company and ask for a renewal proposal to review and negotiate the contract, or if you are intending to deny the franchise renewal you have to advise them of that. Mr. Pompo also stated that if you do nothing in the six months, you give up your right to terminate the franchise. Most Townships reach out, in this situation, and ask the cable company to essentially agree to waive all the procedural things, and the township and cable company work over the next three years towards a renewal contract. Mr. Porter asked Mr. Pompo how the township would know about a resident complaint. Mr. Pompo replied that if a resident contacts Comcast with a complaint, they have a duty to tell them to go to their township to institute their formal complaint. Mr. Makely directed Mrs. Miller to add this item to the October 8, 2013 workshop agenda.

Authorization to allow the Township to resume using community service workers – Mr. Pompo explained that the Pennsylvania Law specifically indemnifies and make immune from liability any municipality, its officials and employees for injuries sustained during the performance of Court Ordered community service. It provides the same immunity to the municipality etc., for any acts committed by the community service participant. The only exception would be for intentional or reckless acts by the municipality. The Board agreed to resume the use of community service workers.

Telecommunications Registration Fee – Mr. Makely made a motion to change the Telecommunications Registration Fee from \$600.00 to \$100.00 for all Township Telecommunications Towers, effective January 1, 2014. Mr. Toth seconded. Vote: Unanimous.

Portnoff Law Associates, LTD., Writs of Execution – Mr. Makely made a motion to approve the filing of Writs of Execution, as presented by Portnoff Law Associates., LTD. Mr. Toth seconded. Mr. Porter asked Mrs. Moore if she has seen payments coming in. Mrs. Moore replied that she would have to look at the list of sheriff sales and compare them to the payments received. Vote: Unanimous.

Mark Toth working in the township office – Mr. Makely made a motion to approve Vice Chairman Mark Toth working in the township office, as a part time administrative assistant for 137 hours at \$12.00 per hour totaling \$1,644.00 retroactively from the time period of October 2012 until May 2013. Mr. Amentas seconded. Mr. Amentas asked why the Board is making this motion. Mrs. Moore replied that she asked Pennsylvania State Association of Township Supervisors if the Board violated any law (based upon Mr. Makely's request at the August 13th board meeting), and they said no. Mr. Amentas stated that he did not want to use the word "retroactively." Mr. Makely withdrew his motion. Mr. Amentas asked Mr. Pompo if a Supervisor has to be appointed to an administrative position. Mr. Pompo replied that anyone authorized to hire someone can hire a supervisor in that position. Mr. Pompo stated that the Board takes on the role of hiring when there is no township manager. Mr. Amentas made a motion to approve Vice Chairman Mark Toth working in the township office, as a part time administrative assistant for 137 hours at \$12.00 per hour totaling \$1,644.00 from the time period of October 2012 until May 2013. Mr. Makely seconded. Mr. Makely and Mr. Amentas voted yes. Mr. Pomorski and Mr. Porter voted nae. Mr. Toth abstained. Vote failed.

Mr. Makely excused himself from the meeting.

TREASURER'S REPORT:

August 27, 2013 Treasurer's report – Mr. Amentas made a motion to approve the August 27, 2013 Treasurer's report as presented Mr. Pomorski seconded. Mr. Toth abstained. Buddy Rhoades asked if the police department was in arbitration. Mr. Pomorski and Mr. Porter replied that there is an arbitration meeting on October 23, 2013. Mr. Rhoades also commented on other items. Vote passed.

August 2013 payment authorizations – Mr. Amentas made a motion to approve the August 2013 payment authorizations as presented. Mr. Pomorski seconded. Vote: Unanimous.

Township Tax – Mr. Amentas stated that there are not three Supervisors, on the current board, in favor of a tax. Mrs. Moore stated that she is concerned about the future of the economy, and the effect on earned income tax revenue.

Schedule a date for next budget meeting – The Board scheduled the next budget meeting immediately following the October 8, 2013 workshop meeting.

PUBLIC WORKS DEPARTMENT:

August 2013 road and vehicle report – No presentation – See report.

August 2013 recycling report – No presentation – See report

POLICE DEPARTMENT:

July 2013 police report – Presented by Chief Porter.

Mr. Porter asked the Board to review his documentation, in their folders, on a 2014 Charger with a four year lease at a rate of 4.68% over a four year period.

Mr. Porter asked Chief Porter on the camera status. Chief Porter replied that the current cameras are outdated. Chief Porter also stated that they are looking at purchasing new computers. Buddy Rhoades commented on a police and road department five year plan.

PARK AND RECREATION:

No update given.

HISTORICAL COMMISSION:

No presentation given.

PLANNING COMMISSION:

July 1, 2013 minutes – No presentation – See report.

Dennis Crook 2011-2014 term – Mr. Toth made a motion to accept the Planning Commission's recommendation to appoint Dennis Crook to fulfill the 2011-2014 Planning Commission term. Mr. Pomorski seconded. Vote: Unanimous.

UNFINISHED BUSINESS:

Mobile Home dumpsters – The Board agreed to take Anthony Spirito's, Allied Waste, professional recommendation that it is unsafe for the township mobile home parks to have a trash dumpster. Mr. Toth directed Mrs. Miller to send Doe Run Mobile Home Park a letter informing them of Allied Waste's decision.

Comprehensive Plan Update – Mr. Porter stated that he would like to be recognized as an official task force committee member. Mr. Porter also stated that the task force is developing a format to move forward with the comprehensive plan. Mr. Toth, Mr. Pomorski, and Mr. Porter agreed to work together in attending the meetings. Mr. Pompo stated that if the task force takes a vote, only two Supervisors should identify themselves as task force members and participate in the vote.

NEW BUSINESS:

Mr. Toth read the following committee vacancies; Zoning Hearing Board one 2014-2018 term, Planning Commission two terms for 2014-2017, Historical Commission two terms for 2014-2018 (one of them for a PA registered licensed Architect), Park and Recreation two terms for 2010-2014, and one vacancy for the Vacancy Board 2014 term.

Mr. Porter recommended putting the departments separately on the reorganization agenda, so they can be voted on separately, instead of as a whole.

Mr. Toth informed the audience that there will be an unused or expired drug collection event at the township municipal building on Saturday, October 26th 2013, from 10:00 Am to 2:00 PM.

PUBLIC PARTICIPATION:

Tim Tipton of 2180 Strasburg Road would like Mr. Porter's previous comment that he stopped at Buddy Rhoades house and told him of Mr. Tipton's complaint form, reflected in the record.

ADJOURNMENT: Mr. Toth made a motion to adjourn the Board of Supervisors meeting at 9:53 PM. Mr. Pomorski seconded. Vote: Unanimous.

Respectfully Submitted,

Denise Miller, Township Secretary