

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
July 28, 2020 Approved minutes
6:31 p.m.

Members Present

Wilson Lambert, Chairman
Katja Dirado, Member
Carol Kulp, Member
John Nielsen, Member

Township Staff Present

Scott Swichar, Township Manager

Township Solicitor

Mike Crotty

1. CALL TO ORDER, SILENT MEDITATION, AND PLEDGE OF ALLEGIANCE

Chairman Lambert called the meeting to order at 6:31 PM.

2. DISCUSSION

A. APPROVAL OF MINUTES

JUNE 23, 2020 BOARD OF SUPERVISORS MEETING MINUTES

MOTION: Supervisor Kulp made a motion to approve the June 23, 2020 Board of Supervisors meeting minutes as presented. Chairman Lambert seconded.

Supervisor Nielsen stated that he and Vice Chairman Heffern would like the June 23, 2020 meeting minutes to reflect that they do not want to vote on any issues related to 40 Loop Road.

Chairman Lambert stated that the minutes do in fact reflect that Supervisor Nielsen and Vice Chairman Heffern would like to be recused from voting on issues related to 40 Loop Road.

VOTE: 4-0

B. PLANNING COMMISSION – INTERVIEW APPLICANT – JENNIFER WRIGHT

Township Manager Swichar stated that the Planning Commission recommended the appointment of Jennifer Wright to the Planning Commission.

MOTION: Supervisor Nielsen made a motion to appoint Jennifer Wright to the Planning Commission for the term 2018-2021. Chairman Lambert seconded

VOTE: 4-0

A. INTRODUCTION OF NEW TOWNSHIP ADMINISTRATIVE ASSISTANT, DENISE VERDEROSA

The Board of Supervisors and Township Manager welcomed Denise Verderosa to East Fallowfield Township. Ms. Verderosa gave an overview of her background.

B. FIRE DEPARTMENTS & DEPARTMENT OF EMERGENCY SERVICES

1. June Westwood Fire Company Fire Chief's Report submitted for Board and resident review.
2. June Westwood Fire Company EMS Report submitted for Board and resident review.
3. June Modena Fire Company Fire Chief's Report submitted for Board and resident review.
4. June Modena Fire Company Fire Chief's Report – East Fallowfield Calls Only submitted for Board and resident review.
5. June Modena Fire Company EMS Report submitted for Board and resident review.

C. PARK AND RECREATION BOARD

- 1) Report Submitted by Monica Strauser, Chair of the Park and Recreation Board.

Ms. Strauser presented a press release that the Park and Recreation Board will be cancelling Park Day due to the pandemic. Ms. Strauser stated that the Park and Recreation Board is exploring other event options such as a drive-in movie night and a drive-in concert/BBQ. She stated that the events might cost more due to increased personnel and that they would need to create larger parking spaces.

Supervisor Nielsen stated that events might need a pre-registration component. Ms. Strauser stated that the Township is implementing an online survey to question residents whether they are comfortable attending an event and determine what types of events and park amenities might be of interest. She stated that she hopes to share the survey results in 2-3 weeks. She stated that she is concerned about timing due to the park restroom construction.

Chairman Lambert thanked Ms. Strauser for her efforts and enthusiasm. Township Manager Swichar commended Ms. Strauser for her ideas and passion. Ms. Strauser questioned whether the Township can advertise the press release notifying residents that Park Day will be cancelled on the Township website.

Township Manager Swichar stated that the Board of Supervisors does not need to vote on distributing the press release. He stated that the Park and Recreation Board is looking for the support from the Board of Supervisors. Township Solicitor Crotty stated that the Board of Supervisors does not need to formally vote to approve the distribution of the press release.

Ms. Strauser stated that the Park and Recreation Board has been discussing security cameras and door locks for the restrooms.

Supervisor Nielsen questioned who would review security tapes. Township Manager Swichar stated that the police might need to be involved in the process. He stated that security cameras were not budgeted however the Township should explore safety options for the park restroom.

Chairman Lambert questioned whether the park restrooms will be locked at certain times during the day. Ms. Strauser stated that restrooms should follow the operating hours of the park.

Supervisor Dirado questioned when the survey will be distributed and how the parking spaces would be marked for special events. Ms. Strauser stated that the survey should be released tomorrow and that she is uncertain how the parking spaces would be delineated on the grass. Ms. Strauser stated that the Township might consider having an event crew to manage events if they occur frequently.

Township resident Erwin Zeller questioned if the Township is reinventing the wheel and whether it would be helpful to look at other Township parks.

Ms. Strauser stated she has looked at other Township parks, including parks in West Bradford Township and Coatesville. She is hoping the online park survey will reveal which park amenities are most important to residents.

D. TREASURER'S REPORT

1) June 30, 2020 Treasurer's Report.

MOTION: Chairman Lambert made a motion to approve the June 30, 2020 Treasurer's Report as presented. Supervisor Kulp seconded.

Supervisor Nielsen questioned the purpose of the rebill and escrow fund and whether the funds would be merged into one account. Township Manager Swichar stated that the Township intends to move money from the escrow account into the General Fund.

VOTE: 4-0

2) Payment Authorizations.

MOTION: Supervisor Kulp made a motion to approve the Payment Authorizations for the period of May 27, 2020 through July 28, 2020 in the total amount of \$383,644.74 as presented. Chairman Lambert seconded.

VOTE: 4-0

Supervisor Nielsen stated that the escrow fund has \$47,467.57. He questioned the purpose of the rebill fund. He questioned if there are additional escrow funds in the General Fund.

Township Solicitor Crotty stated that additional escrow funds, such as those escrow funds from Rouse Chamberlin, are held in a third-party financial institution in the name of the developer. Township approval is needed to draw down on these third-party accounts. He stated that funds in the rebill account are used as escrow for certain projects that are in the application phase to pay for professional consultant review fees. There is a separate escrow for the public improvements, which are the third-party escrow accounts placed in private banking institutions.

Supervisor Nielsen questioned if the money in the rebill fund are for application fees.

Solicitor Crotty stated that Barsz, Gowie, Amon & Fultz examined the escrow and rebill accounts which will be discussed later during the meeting. He stated that he is unsure which monies were put into those accounts.

3) 2019 Liquid Fuels Audit.

Township Manager Swichar stated that the Township received an audit of its 2019 Liquid Fuels Audit this month by the Auditor General. He stated the Township receives Liquid Fuels tax monies for reconstruction and maintenance of roads. The Township passed its audit without any findings, which is noted on the report from the State. The audit results were presented to the Board of Supervisors and the public document is available upon request.

E. TOWNSHIP MANAGER'S REPORT

1) Wagner Lane Subdivision-Landscaping Proposal. Presentation by David E. Rentschler of JMR Engineering

Township Manager Swichar stated that David Rentschler of JMR Engineering, representing Dave Thomas, is on the call. He stated that the Planning Commission met and reviewed the Wagner Lane request for landscaping relief. The Planning Commission recommended that the plantings be installed along Wagner Lane. The Planning Commission deferred to Chris Della Penna regarding the landscaping at stormwater basins.

Mr. Rentschler stated that the lots were sold over a ten-year span. The developers were selling the lots to homebuilders. He stated that all lots had landscaping installed at stormwater basins except for lot #1. He stated that the landscaping of the basin should have been caught at the building permit phase since it was not installed. The property has since sold and is now privately owned. Any landscaping would require the permission of the new owner. He stated that the Planning Commission recommended street trees even though it would be difficult to plant due to existing vegetation. Mr. Rentschler is requesting that the Board of Supervisors decide whether the developer should plant the street trees consisting of 30 street trees and 2 evergreen trees.

Chairman Lambert questioned whether the Planning Commission agreed to revise the original plan.

Township Manager Swichar stated that the Planning Commission wants the street trees to be planted.

Supervisor Nielsen stated he went to the site and does not want street trees to be planted. He stated the trees should be planted in the park instead. He questioned if anyone from the Planning Commission visited the site.

Mr. Rentschler stated that residents might not want to mow right of ways in front of their home if trees are planted.

Solicitor Crotty stated that residents might also remove the tree after its planted.

Mr. Rentschler stated he colorized the 7 street trees on the landscape plan that are outside the right-of-way. They are on private lots. Lot # 2 has not been developed yet. Trees would have to be removed along Lot #2. Existing vegetation is very tight around the cul-de-sac.

Chairman Lambert stated that because the street trees were not planted as originally proposed, it puts the Township in a difficult position.

Supervisor Nielsen stated he understands the position of the Planning Commission, however they are following textbook. The landscaping plan is from 2004.

Supervisor Dirado stated that the Board of Supervisors should visit the site.

Mr. Rentschler stated that approximately \$43,000 is still in escrow. Of the total escrow, \$16,530 is for landscaping and inspections escrow monies. Of the \$16,530, \$13,140 is for landscaping and \$3,190 is for inspection. Mr. Rentschler stated the developer is not looking to take back the \$16,530. He stated that they would like a decision on whether the Board wants them to plant the street trees so they can take the remaining escrow monies back or forfeit the \$16,530 and use the monies for the park. The developer wants to close the escrow account.

Supervisor Dirado questioned the breakdown of escrow monies.

Mr. Rentschler stated that the most recent escrow statement from 2018 reflects an escrow balance of \$42,777.51, \$13,140 remaining in landscaping and \$3,390 for township inspection. \$26,247.51 is for contingency.

Chairman Lambert stated that he would like to hear from residents and visit the site.

MOTION: Chairman Lambert made a motion to table the matter to the next Board of Supervisors meeting. Supervisor Nielsen seconded.

Township resident Erwin Zeller stated he does not see a useful purpose for the trees.

Township resident Tom Nash stated there are underground utilities in the cul-de-sac near where the trees would be planted.

Chairman Lambert stated the underground utilities are noted on the original plan.

VOTE: 4-0

- 2) Ridgecrest Escrow Release No. 5 for Phase 2 dated June 8, 2020, reducing \$210,034.32

MOTION: Chairman Lambert made a motion that the Township approve Escrow Release No. 5 for Phase 2 of the Ridgecrest Residential Subdivision, in the amount of \$210,034.32. Supervisor Kulp seconded.

VOTE: 4-0

- 3) Ridgecrest Escrow Release No. 11 for Phase 1 dated June 8, 2020, reducing \$50,057.39

MOTION: Supervisor Dirado made a motion that the Township approve Escrow Release No. 11 for Phase 1 of the Ridgecrest Residential Subdivision, in the amount of \$50,057.39. Chairman Lambert seconded.

VOTE: 4-0

- 4) Summer Seasonal Employment: Recommendation to Hire Seasonal Public Works Employees

MOTION: Chairman Lambert made a motion to hire Ryan Montgomery and Gregory Leonard for part-time seasonal work in the Public Works Department at a rate of \$14.50/hour for the 2020 summer season. Supervisor Nielsen seconded.

VOTE: 4-0

- 5) Purchase of Pressure Hot Water Washer

MOTION: Chairman Lambert made a motion to authorize the Township Manager to purchase an HDS Diesel Power Washer from Kochel Equipment Company from the Capital Fund, less the \$501 trade of the old machine, at a total cost of \$3,999. Chairman Kulp seconded.

Township Manager Swichar stated that the purchase of a new power washer will replace an old machine that would cost \$2169 to repair. The Township received three estimates and the estimate from Kochel is the lowest.

Supervisor Nielsen questioned if the power washer is used to clean public works equipment such as backhoes.

Township Manager Swichar stated yes.

Chairman Lambert stated the power washer will be used to wash salt from road equipment.

VOTE: 4-0

6) Weed Control Program for 2020 –Weeds, Inc. Contract.

MOTION: Chairman Lambert made a motion to approve Program #1 for \$2,238 for the 2020 vegetation control behind the guard rails on township roads and to authorize the Township Manager to sign the contract. Supervisor Kulp seconded.

Supervisor Nielsen questioned if contract covers the park as well.

Township Manager Swichar stated no. The Township will use the weedwhacker to kill weeds in the park

Supervisor Nielsen questioned if the Township has been using chemical vegetation weed control for a long time.

Township Swichar stated yes.

Supervisor Dirado questioned if chemicals would be used.

Township Manager stated yes.

Chairman Lambert stated that the Township has likely been using chemicals for many years. He is not aware of any tort liability case in East Fallowfield for someone hitting a guardrail that they could not see because of weeds.

Supervisor Dirado stated that other Townships have posted Do Not Spray signs.

Supervisor Kulp stated the chemicals are toxic for domestic animals and may be toxic for wild animals and end up in the creeks.

Township Manager Swichar stated that he reached out to other municipalities, however none of them have come up with a more cost-effective approach.

Supervisor Nielsen stated he would need see how the vegetation is obstructing the guardrails.

Supervisor Dirado questioned if the spray application is for next year.

Township Manager Swichar stated that the spray application is for the 2020 season.

MOTION: Supervisor Dirado made a motion to table the motion. Chairman Lambert seconded.

VOTE: 4-0

7) Approval of PennDOT Winter Services Traffic Agreement

Township Manager Swichar stated that PennDOT requires that the Township sign the Winter Services Traffic agreement every year even though the Township signed a separate five-year agreement last year. Mr. Swichar stated that there was a small increase in reimbursement from \$33,233 last year to \$33,698 this year.

Supervisor Dirado asked for an explanation of the agreement.

Township Solicitor Crotty stated that the agreement provides that the Township will plow state roads. The benefit is that the Township is already paving roads and that the Township is paid to do it. If PennDOT were to pave the road, it would likely be done last.

Supervisor Nielsen questioned if PennDOT would withhold money if plowing were not needed.

Solicitor Crotty stated no.

MOTION: Chairman Lambert made a motion to approve the 2020-2021 Winter Services Traffic Agreement with PennDOT. Supervisor Dirado seconded.

VOTE: 4-0

8) Coatesville Area Library Updates

Township Manager Swichar stated that Vice-Chairman Heffern requested that he update the Board on the status of the library. He stated that Pat Bush, the Treasurer, provided a letter to the Board of Supervisors. The library is currently doing curbside pickup. The library received a grant from Chester County. The renovations are 90% complete and will be done in August. He stated that the library is partially open for curbside pickup.

9) Participation in 2020-2021 Sodium Chloride Consortium

East Fallowfield Township is participating in the salt bid with the Consortium this year. In the past, the Township purchased salt directly from Pennsylvania Co-Stars. However, historically the pricing from the Consortium has been cheaper than Pennsylvania Co-Stars. He stated that the Board of Supervisors is interested in saving the Township money and participation in the Consortium will help the Township realize that goal.

West Bradford Township put the salt out to bid and the bid opening is on August 11, 2020

Supervisor Nielsen questioned if the bid is only for road salt.

Township Manager Swichar stated yes.

Supervisor Kulp questioned if the Township is required to purchase excess salt even if they do not need the salt.

Township Manager Swichar stated that the Township is required to purchase approximately 60 or 70% of the total contracted amount from Pennsylvania Co-Stars. Township Manager Swichar stated that he requested 300 tons from the Consortium bid.

Supervisor Nielsen questioned if there is room in the shed for additional salt.

Township Manager Swichar stated yes.

Supervisor Dirado questioned the difference in savings between the Consortium bid and Pennsylvania Co-Stars.

Township Manager Swichar stated that the savings between Pennsylvania Co-Stars and Consortium is substantial. He does not recall the exact number but will provide that information to the Board. Historically the Consortium has been cheaper.

10) No New Business

F. LEGAL

1) Temporary Construction Easement Agreement between Rouse Chamberlin and East Fallowfield Township

Township Solicitor Crotty stated the easement agreement is related to the road improvements at West Chester Road and South Caln Road. The Township will need to encroach on Rouse Chamberlin's property. Rouse Chamberlin has already signed the agreement.

MOTION: Chairman Lambert made a motion to approve a temporary construction agreement between Rouse Chamberlin and East Fallowfield Township and authorize the Chairman of the Board of Supervisors to execute the agreement. Supervisor Kulp seconded.

Supervisor Nielsen questioned if the agreement is covered under Township's liability insurance and whether homeowners would be covered as well.

Solicitor Crotty stated that Rouse Chamberlin is listed as an additional insured and property owners would be covered under the Township's insurance should any damage occur during the construction period.

Supervisor Nielsen questioned if there is also agreement with the homeowners and whether they are covered by the Township's general liability policy.

Solicitor Crotty said yes. He stated they would be covered under the Township's general liability policy.

Supervisor Dirado questioned if the Township will enter the developer's property to do work. She questioned that the Township could have built a round-a-bout since it is entering the developer's property.

Supervisor Kulp stated that the contractor will only be entering property on a temporary basis. She questioned how many homeowners would be affected.

Solicitor Crotty Stated that no properties would be affected. Only open space would be affected.

VOTE: 4-0, Supervisor Dirado abstained.

2) BAWA land development subdivision

Solicitor Crotty stated that the agreement has already been approved subject to several conditions. He stated that the Township is waiting for the signature from the developer's bank. The Township is ready to approve the forms of the agreement. Once the last signature is received, the plans can be released. He stated that there are four agreements. The standard developer agreement which requires the developer to construct public improvements; a financial security agreement which requires the developer to put up money to fund improvements; a stormwater management agreement which requires the developer to install and maintain

stormwater system; and a planned institutional community agreement, an HOA document which ensures maintenance of common areas and compliance with the ordinance related to the development.

Supervisor Nielsen stated that page one of the agreement incorrectly lists Mount Carmel Road as Mount Carmel Drive. He questioned the name of the financial institution and why they have not signed the agreement. He stated he is not comfortable that the agreement has not been signed.

Solicitor Crotty stated Fulton Bank is the financial institution and because staff is not working in the branch, there is a delay in signing the agreement. He stated the Township is only approving the forms of the agreement. The Township still needs the signatures on the agreement and would not release the plans until the agreement is countersigned.

Supervisor Nielsen stated that the agreement contains wording about agricultural and institutional/cemetery land. He questioned if religious institutions are exempt from property taxes. He questioned the size of the religious institution land and whether the open space would be considered agricultural land.

Solicitor Crotty stated religious portions would be tax-free. The entire property is 100 acres. He stated that with the housing development in place, about 10-15% would be used for religious/institutional use. The remaining land would be agricultural or housing. The housing would be taxed. He stated that an approved use of open space is agricultural.

Township Resident Erwin Zeller questioned how the development affects the tax rate.

Solicitor Crotty stated if the property is currently not taxed, once it is converted to agricultural and residential use, those portions would be taxed. It would be taxed at a higher rate than it is currently.

Supervisor Nielsen stated that the agreement states planned agricultural uses. He questioned if everyone has a garden plot, is that considered agricultural use.

Solicitor Crotty stated that open space is looked at the same way by the County as agricultural use.

Supervisor Dirado questioned right of first offer and whether only people that belong to the church can purchase a property in the community.

Solicitor Crotty stated that according to the Zoning Ordinance from 2000, the seller would have to first make the offer to the religious institution. If they do not want to purchase the property, then they can sell the property to a third party at or above the asking amount. A third party would be subject to the requirements of the Ordinance. He stated it is a right of first offer.

Township resident Erwin Zeller questioned how many homes will be built at the site and whether the property will be beneficial to the Township from a tax perspective.

Supervisor Nielsen questioned if the community will be responsible for road maintenance. He questioned the purpose of the #8 amendment.

Solicitor Crotty said yes. If they want to amend the declaration, they need to come back to the Township for approval. If the Township does not act within 60 days, then its deemed approved.

Supervisor Dirado questioned the price of the homes.

Solicitor Crotty said he does not know the price of the homes. He stated that many of the homeowners have already paid toward the construction of the community.

Supervisor Nielsen questioned the assessed value.

Solicitor Crotty stated that no preferential treatment would be provided. It would be determined by the fair market value, scope of improvements, and square footage.

MOTION: Chairman Lambert moved that the Board approve the Bawa Fellowship Development Agreement, Financial Security Agreement, Stormwater Management Agreement and Planned Institutional Community Declarations in the form as presented and authorize the plans to be released for recording. Supervisor Kulp seconded.

VOTE: 4-0

- 3) Update on Consulting Work Contract by Barsz Gowie Amon & Fultz LLC and A Resolution authorizing a transfer of \$57,467.57 from the Agency Escrow Fund to the General Fund.

Solicitor Crotty stated that Barsz Gowie Amon & Fultz finalized its review of the Township's escrow accounts. Their recommendation is in the form of Resolution 2020-11. They are recommending the transfer of \$57,467.57 from the Agency Escrow Fund to the General Fund.

Supervisor Nielsen questioned the definition of Agency.

Township Manager Swichar stated that \$47,467.57 is coming from the agency escrow account and \$10,000 is coming from the rebill account to the General Fund. He stated that the Board approved the project in February 2020. Peter Barsz has examined the accounts and determined that expenses were already paid out from the General Fund. He stated that the funds have been in the accounts for at least 15 years. A total of \$57,467.57 will be transferred into the General Fund

MOTION: Supervisor Dirado made a motion to approve Resolution 2020-11 authorizing a transfer of \$57,467.57 from the Agency Escrow Fund to the General Fund as recommended by the Township's financial consultant. Chairman Lambert seconded.

Township resident Erwin Zeller questioned the origin of the funds.

Township Manager Swichar stated the funds probably came from developers and were spent from the General Fund rather than the escrow account.

VOTE: 4-0

- 4) ArcelorMittal landfill permit application

Solicitor Crotty stated that Arcelor Mittal is not expanding the type of materials going into the landfill. August is the deadline to submit comments to DEP.

Township Manager Swichar stated that no official report was received from Township Engineer Chris Della Penna.

Supervisor Nielsen questioned if he could receive the Township's 2011 objections to the permit.

Chairman Lambert stated that the Board of Supervisors protested issues related to the park in 2011. He stated that DEP said the park would not be an issue.

5) 10 Newlinville Road Zoning Hearing Board decision

Solicitor Crotty stated that the Zoning Hearing Board issued a decision on 10 Newlinville Road. If anyone disagrees with the decision, they have 30 days to appeal the decision to the Chester County Court of Common Pleas.

Supervisor Nielsen questioned if the Historical Commission has weighed in on the decision since it may be an historical property.

G. PLANNING COMMISSION

No Report Submitted

H. POLICE DEPARTMENT

June Police Report submitted for Board and resident review.

I. PUBLIC WORKS DEPARTMENT

June Road Department Report submitted for Board and resident review.

J. HISTORICAL COMMISSION

K. OLD BUSINESS

L. PUBLIC PARTICIPATION

1. Susan Clark gave a PowerPoint presentation on Wireless Technology known as 5G. She discussed constitutional rights, local control, and the dangers of wireless technology.

Supervisor Dirado stated there is a lot of detail in the presentation and questioned the purpose of the presentation.

Chairman Lambert questioned how her presentation pertains to East Fallowfield Township.

Ms. Clark stated she has worked with state regulators in the past. She stated that the Township can regulate wireless facilities based on health considerations. She stated that the Township could revise its Ordinance to better regulate wireless facilities.

Chairman Lambert stated that Ms. Clark's presentation will be forwarded to the Planning Commission.

Supervisor Dirado questioned if Ms. Clark's intention is to change the Township's Ordinance. She stated that the resources should be checked and questioned against the Health Department's views on wireless. She stated that she would like to see if the Health Department has researched the issue.

Ms. Clark stated that two residents of East Fallowfield Township requested that she present information to the Township. She stated that one part of the Township's Ordinance is not consistent with the Telecommunications Act. She stated that an update will benefit the Township.

Supervisor Kulp stated that Ms. Clark is trying to relay to the Board about the dangers of 5G.

Ms. Clark stated that since 1990 there have been numerous established studies of radio frequency microwave bio-effects. She stated it is a covered-up science.

M. NEW BUSINESS

Supervisor Nielsen questioned the speed limit eastbound on Strasburg Road near Mount Carmel Road as it is 45-mph in the eastbound lane going down the hill and 35 mph in the westbound lane going up the hill. He stated that the speed should be the same in both directions.

Chairman Lambert questioned why there is a discrepancy. He stated the Township might want to relocate the signs, so the speed limit is the same in both directions.

Solicitor Crotty stated the Township should get an opinion from the traffic engineer. The engineer might recommend other speed mitigation tactics.

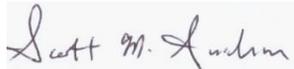
Township Manager Swichar stated he will review the matter with Traffic, Planning, and Design (T.P.D.)

N. ADJOURNMENT

MOTION: Supervisor Dirado made a motion to adjourn the July 28, 2020 Board of Supervisors Meeting at 9:07PM. Chairman Lambert seconded

VOTE: 4-0

Respectfully Submitted,

A handwritten signature in cursive script that reads "Scott M. Swichar". The signature is written in black ink on a light-colored background.

Scott Swichar,
Township Manager/Secretary