

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
December 20, 2011
Approved minutes
6:33 PM

CALL TO ORDER, SILENT MEDITATION, AND PLEDGE OF ALLEGIANCE

IN ATTENDANCE: Chris Amentas, Chairman; Chris Makely, Vice Chairman; Gary Barach, Member; Mark Toth, Member; George Broadbent; Member, Denise Miller, Township Secretary; Chris Della Penna, Township Engineer; Vince Pompo, Solicitor.

Mr. Amentas announced that there were Executive Sessions on November 15, 2011 at 6:00 PM regarding Hidden Valley Estates and one at 4:00 PM regarding personnel matters. Mr. Makely signed a memorandum of conflict with Vince Pompo reclusing himself from the Hidden Valley Estates matter.

APPROVAL OF MINUTES:

November 15, 2011 minutes – Mr. Amentas made a motion to approve the November 15, 2011 minutes as presented. Mr. Toth seconded. Mr. Broadbent abstained. Mr. Barach was absent at this time. Vote passed.

October 22, 2011 budget minutes – Mr. Amentas made a motion to approve the October 22, 2011 minutes as presented. Mr. Makely abstained. Mr. Barach was absent at this time. Vote passed.

CITIZENS BY REQUEST:

Sharon Scott – Mrs. Scott stated that the budget is unaudited and the concise audited financial statements are not being advertised in the paper. Mrs. Scott also recommended disbanding the full time police officers and hiring all part time officers.

TREASURER'S REPORT:

September 30, 2011 Treasurer's report – The September 2011 Treasurer's report was tabled until the January 2012 meeting so the Board can speak with Rosemary Moore, township bookkeeper, and Mr. Barach on certain items that are in question.

October 31, 2011 Treasurer's report – The October 2011 Treasurer's report was tabled until the January 2012 meeting so the Board can speak with Rosemary Moore, township bookkeeper, and Mr. Barach on certain items that are in question.

November 30, 2011 payment authorizations – Mr. Amentas made a motion to approve the November 30, 2011 report as presented. Mr. Broadbent seconded. Mr. Makely abstained. Vote passed.

November payment authorizations – Mr. Amentas made a motion to approve the November payment authorizations as presented. Mr. Makely seconded. Vote: Unanimous.

Mr. Amentas asked Mr. Pompo if there are any issues that the Board needs to be aware of from the comments that were raised by Sharon Scott under "Citizens by Request." Mr. Pompo responded by stating "That he does not believe that there is any impact with the Board reviewing the actual proposed 2012 budget." Mr. Pompo also stated that the township needs to follow the publication requirements according to the second class township code. Mr. Amentas asked Mrs. Miller the status of the 2010 audit. Mrs. Miller replied "It is almost completed."

2012 BUDGET:

Non-Uniformed pay increase – Mr. Amentas stated that he is in favor of a three percent pay increase for the non-uniformed employees. Mr. Toth stated "The increase is actually a "cost of living" increase." The Board concurred.

2012 Coatesville Library donation – This issue was not discussed.

Extend the medical insurance deductible to all employees – The Board decided not to discuss this issue.

Paid holidays for part-time employees – The Board decided not to discuss this issue.

Central Desktop 2012 invoice for \$1,980.00 – Mr. Makely stated that the Board does not utilize Central Desktop the way it should be utilized. Mr. Makely also stated that because of the issues with the “Sunshine Law” the Board has been communicating very rarely. Mr. Makely asked Mr. Pompo if there is an issue with Central Desktop and the “Sunshine Law.” Mr. Pompo replied that there are no present cases, but it could become an issue. Mr. Pompo also stated that decisions should be made and voted on in public. Mr. Broadbent stated that Central Desktop has a “document feature” that the Board could utilize. The Board is in agreement to keep Central Desktop for 2012.

2012 Dodge Charger – The Board agreed to lease the 2012 Dodge Charger for four years. Mr. Makely asked if the Township enacted a property tax, would there be a pre-payment penalty on the lease. Mr. Amentas replied that it is unusual to have those types of provisions.

Kato Technology Solutions, Inc. remote monitoring for all servers – The Board agreed to the \$50.00 annual fee payable to Kato Technology Solutions, Inc. for their remote monitoring for all of the township servers.

Mr. Amentas made a motion to adopt the 2012 budget with a three percent pay increase for non-uniformed employees, Central Desktop will be renewed for 2012 in the amount of \$1,980.00, a Dodge Charger financed over four years, and Kato Technology Solutions, Inc. in the amount of \$50.00 for remote monitoring services. Mr. Broadbent seconded. Glenn Colyer asked if the Dodge Charger price included the transfer fees and the radio equipment. Mr. Makely replied that he believes the cost would be \$1,500.00, not including the graphics. Bob King asked the Board how many miles come with the Dodge Charger and he would also like the cost of the “extras” in writing. Mr. Makely replied that the miles are unlimited. Mr. King also asked if the “lease option” is the best way to go. Mr. Makely replied that the township can buy the vehicle for \$1.00 once the lease is completed. Kenny Smith stated that if the township does not buy the vehicle back for \$1.00 then the three year lease would be better. Vote: Unanimous.

PARK AND RECREATION:

December 2011 summary – The December 2011 summary was presented.

Mr. Carling informed the Board that Jennifer Carling and Sue Massaro resigned from “Friends of the Park” so there may not be an “Easter egg hunt” or a “Park Day” unless they get new members to fill the vacancies. Mr. Carling also informed the Board that he would like to make “Friends of the Park” a non-profit group.

HISTORICAL COMMISSION:

November 2011 minutes – The November 2011 Historical Commission minutes were presented.

Historical Commission re-appointments – Mr. Amentas made a motion to accept the re-appointments of Paula Coyne, Arthur DeLeo, and Sue Monaghan for the 2012 – 2016 terms. Mr. Makely seconded. Ed Porter asked the Board if they could wait and approve the re-appointments at the January re-organizational meeting. Mr. Amentas withdrew his motion and moved the re-appointments to the January 3, 2012 re-organizational meeting.

PLANNING COMMISSION:

Planning Commission re-appointment recommendations – Mr. Amentas made a motion to accept the re-appointments of Garth Monaghan and Jim Weeks for the Planning Commission 2012 – 2015 terms. Mr. Toth seconded. Ed Porter asked the Board to table the re-appointments until the January 3, 2012 re-organizational meeting. The Board agreed. Mr. Amentas withdrew his motion and moved the re-appointments to the January 3, 2012 re-organizational meeting.

POLICE DEPARTMENT:

November 2011 police report – The November 2011 police report was presented.

SOLICITOR'S REPORT:

Mr. Pompo informed the Board of Supervisors that there was a meeting, where Mr. Harlan owner of “Hidden Valley Mobile Home Park” agreed to the terms of the Release and Settlement agreement. Following that meeting there was a pre-meeting where Mr. Harlan requested a sixty day extension because the Conservation District indicated that they preferred that the restoration work was deferred until the springtime so there would be the opportunity for germination and seeding. Mr. Della Penna is in agreement to wait until the spring time. Mr. Amentas made a motion to amend the settlement agreement with Mr. Harlan to extend the compliance period an additional sixty days. Mr. Broadbent seconded. Mr. Della Penna asked

if the sixty days was the completion date or the start date. Mr. Pompo replied "That it would be the start date and the completion date, they are two different dates in the agreement." Mr. Makely abstained. Vote: Unanimous.

Mr. Barach arrived at the meeting 7:10 PM.

LEGAL ISSUES:

Fieldstone Development update – Mr. Della Penna informed the Board of the December 16, 2011 meeting with himself, the Conservation District, a representative from Rouse Chamberlain ("Rouse"), and a resident who is affected by the development runoff. As a result of the meeting "Rouse", representing the bank, agreed to fix a few minor items now and a lot of the items in the springtime. The bank would like to market the property to a developer and have them take on the responsibility of the work that needs to be completed. However, they agreed to have another meeting. Mr. Amentas asked Mr. Della Penna if the Conservation District previously determined that the temporary facility was functioning and the downstream runoff was not coming from development. Mr. Della Penna replied that they always admitted to runoff coming from the property but there is not a significant amount of water if you look at the watershed. Mr. Della Penna also stated that this is his opinion. Mr. Pompo stated that there is an October 27, 2011 inspection report from the Conservation District that found violations and a November 16, 2011 letter that has no violations. Mr. Della Penna explained that the October 27 letter was the "inspection" report and the November 16 letter was a "follow up" letter. Mr. Pompo asked Mr. Della Penna if the Conservation District will still pursue the violations found in the October 27 letter. Mr. Della Penna replied "absolutely." Mr. Amentas asked "At what point does the run-off become actionable by anyone." Mr. Della Penna replied "I can't answer that." Mr. Broadbent asked if there was a time frame in the Conditional Use process for this project. Mr. Pompo replied that there was a time frame for completing the municipal review process, including land development approval and building plans issued. All issues have been met. Mr. Pompo also stated that there is a time frame under the financial security agreement with the developer for installing the improvements which has passed. It would be up to the Board of Supervisors to hold them in default. Mr. Della Penna stated that "Rouse" stated that if it involves a certain dollar amount they would have to go back to the Federal Court and have the document revised. Mr. Amentas stated that the Board needs to decide whether to call the builder in default and make a legal determination whether the township has a standing to force them to perform the "major repair items." Mr. Pompo cautioned the Board that to do such an action would have the Board in front of the Federal Court. Mr. Pompo suggested that Mr. Della Penna keep working with the Conservation District to come up with that critical list that could actually serve to alleviate a future problem. Mr. Della Penna stated that he will report back to the Board after the meeting with "Rouse."

CASD Water and Sewer extension support letter – Mr. Pompo informed the Board that the Coatesville Area School District ("CASD") is looking for the Township to produce a letter that would indicate the Township's consent of an expansion of the Pennsylvania American Water Company ("PAWC") water and sewer territory so as to allow for the connection of the South Brandywine Middle School to public water and sewer. Mr. Pompo presented the Board with a motion for consideration to approve sending a letter consenting to the extension of the "PAWC" service territory subject to the "CASD" Board of School Directors agreeing, by official action, to the terms of the December 19, 2011 letter. Lawrence Abrams, representing the "CASD", is in agreement with the revisions in Mr. MacCombie's ("MacCombie") December 19, 2011 letter. Based on the ("MacCombie") letter they are willing to take the water extension to the southern boundary and make it part of their land development record. Mr. Abrams stated that if Mr. MacCombie's letter is made part of their comments and part of the "official record" then you can count of the fact that the "CASD" is going to start right there and asked the Board to not ask them to go back and ask the School Board for official action this early in the land development process. Mr. Pompo asked who at the School District would give the Township an agreement that they won't process the plan without the facilities on it. Mr. Kurowski replied that they cannot move forward in the process unless it's documented on the plans. Mr. Kurowski replied that the Township ultimately has the approval power on land development, which must contain the information. These plans will not be approved unless the township sees everything on the plans. Mr. Kurowski also replied "Why is that something that has to be documented different than anything else on this project." Mr. Pompo replied "Because the township ordinances do not dictate where sewer or water lines go." Mr. Pompo stated that the township understands that they cannot give a conditional consent to extend the public water and sewer territory so in order to work together the township is willing to give a clean letter to "PAWC" that then goes to the Public Utility Commission ("PUC") that says "The township endorses the small expansion of the territory." What recourse would the township have if the School District says later that they do not want to spend \$900,000.00. Mr. Kurowski, "CASD" engineer, asked if there was something under the Municipal Planning Code (MPC) that would allow the Township to not approve the plan. Mr. Pompo replied "We don't dictate where the sewer line goes."

Mr. Pompo stated that he would be very happy if by official action the School Board of Directors would represent that the Township can deny the land development plans if it doesn't have these utilities. Mr. Abrams asked the Board to bear with them a little longer and if their first plans do not show the facilities then the Board can shut them down. Mr. Pompo suggested sending a letter to the "PUC" and slightly change the motion to read. "Our consent is subject to the School District at an appropriate time agreeing to the terms and conditions of Mr. MacCombie's letter." If "PAWC" or the "PUC" responds that

the letter is not sufficient, then that becomes the basis to go back to the School District and say "We have a special circumstance here" and the special circumstance is not the Township creating an issue, it's another body creating an issue that this cannot precede in this conditional form. This would be the basis upon which the School District staff would have to find a way out of the normal procedure in order to solve this matter. Mr. Abrams stated that when he read the letter addressed to "PAWC" it looked like the franchise area just included the School property. Mr. Broadbent suggested sending a letter to the School Board outlining the "MacCombie" letter and ask them to incorporate the "MacCombie" letter into their correspondence. Mr. Barach stated if it's recorded the Township still does not have an agreement. Mr. Amentas stated that the Township should find out if the "PUC" would approve the letter with this specific condition attached to it. Mr. Pompo recommended that the Township could go with either the existing motion which would put everything back into the School Board's hands as to how to deal with the request that there be some type of official action or the alternative would be to add language that would say that the Township Board would approve sending a letter consenting to the extension of the service territory, with that letter stating that the consent is subject to the School Board agreeing to the terms and then forwarding that onto "PAWC" and see what their response is. Mr. Broadbent asked if the Township could send a letter to the School Board documenting conditions saying that the conditions will be incorporated into the land development process and should they not be incorporated the process will be denied. Mr. Abrams asked what the School Board has done to cause the Township to believe that they will renege on their word. Mr. Johnson, from the school district, stated that they have to show proof to the State Department of Education that they received every approval from every state agency and prove that they have water and sewer available to develop. Mr. Johnson also stated that the Chester County Health Department and the Department of Environmental Protection (DEP) are not in favor of onsite water and sewer. Mr. Amentas stated that if the school board changed their mind the township would not have anything to back them up if they don't have a letter with conditions. Mr. Pompo stated "The Township has already approved the necessary easements on park land to allow for the traffic improvements to occur at the intersection at the school district. Notwithstanding this issue not being resolved, there has been cooperation all along and the nature of this particular project was to be dollar zero change for the school district. Meaning, taking the amount of money that the school district would have paid anyway to extend the utilities to the property and to turn that same money along with "PAWC's" contribution and their assistance to develop a utility infrastructure that can also benefit properties beyond the school district property itself." Mr. Amentas stated that at least four Board members are in favor of option A; a clean letter to the "PUC" with the school board approving the oral agreement. Mr. Amentas also stated that he prefers the conditional approval letter because it gives the township enough protection. Mr. Broadbent made a motion to approve sending a letter consenting to the extension of the "PAWC" service territory subject to the Coatesville Area School District Board of School Directors agreeing by official action to the terms of the December 19, 2011 Jamie MacCombie letter. Mr. Amentas would like clarification that the letter will be directed to the "PUC." Mr. Pompo replied that it would be a letter sent by the township to "PAWC" consenting to the extension to their service territory. Mr. Broadbent amended his motion to approve sending a letter to "PAWC" consenting to the extension of their service territory subject to the Coatesville Area School District Board of School Directors concurring by official action to the terms of the December 19, 2011 Jamie MacCombie letter. Mr. Makely seconded. Mr. Abrams stated that this is not like any document that the School Board executes and consent. It is a letter of advice from the township engineer to the Township. Mr. Amentas asked if the motion was to condition the letter on the School Board agreeing, by official action, to the terms of the December 19, 2011 Jamie MacCombie letter as it pertains to actions by the School Board. Mr. Abrams replied "It would be very helpful." Mr. Broadbent amended his motion to approve sending a letter to "PAWC" consenting to the extension of their service territory on receipt of the Coatesville Area School District Board of School Directors consenting by official action to the terms of the December 19, 2011 Jamie MacCombie letter as it pertains to actions by the School District. Mr. Barach seconded. Dennis Crook stated that if the township had a current comp plan everything would already be in place on what to do next. Bob King asked how big is the expansion area. Mr. Johnson replied "The south side of Strasburg Road and both sides of Doe Run Road until you get to Triple Fresh. Sharon Scott asked who is financing the expansion up to Triple Fresh. Mr. Amentas asked "What is the township's financial agenda to this project." Mr. Makely replied "nothing." Mr. Amentas then read Mr. MacCombie's letter that states that the "CASD" is extending the sanitary sewer along Doe Run Road throughout the front of the "CASD" property, as highlighted in orange, provided the Township contributes approximately \$84,506.60. Mr. Barach replied "That is only if the Board decides to do it." Sharon Scott asked who are Jamie MacCombie's invoices billed to. Mr. Amentas replied "Jamie MacCombie bills the Township." Brian Carling asked if there is a process by which the expanded area comes in front of the public. Mr. Broadbent replied that when the "PUC" gets the expansion request they will mail letters out announcing a public meeting for those affected on Doe Run Road. Mr. Pompo replied that there will be a proceeding before the "PUC" on the territory, some type of Act 537 approval that would essentially be extending the sewer service area that would be a public process which would be up to the "DEP" guidelines, and a public proceeding relative to the land development approval. Mr. Broadbent asked Mr. Pompo if the township has to adopt an ordinance for the specific roads in the extension. Mr. Pompo replied that there was a prior agreement relative to the original project of the utility which does not cover that area. John Primus voiced his concerns on the extension. Siti Crook asked who is putting out the money in the interim for the water line. Mr. Barach replied that the "CASD" budgeted money to the expansion. Ms. Crook also asked how the decision was made for the expansion to go up to Triple Fresh. Mr. Barach replied "The decision has not been made yet." Mr. Amentas called for a vote. Mr. Amentas opposed. Vote passed.

Mr. Abrams asked if the Board would approve the "CASD" land development extension tonight. Mr. Amentas made a motion to approve the review period of the land development plans for the Coatesville Area School District for an additional ninety days which would extend the date for required action to April 9, 2012. Mr. Makely seconded. Vote: Unanimous.

Vermeil temporary trailer extension – Mr. Amentas made a motion to extend the time period within which the temporary trailer maybe located at the Vermeil cell tower site from December 21, 2011 until February 21, 2012. Mr. Makely seconded. Mr. Pompo informed the Board that there is an outstanding invoice in the amount of \$4,617.98. Mr. Shiring, representing AT&T, stated that if the Secretary could email the outstanding invoices to him he will make sure it is paid right away. Mr. Amentas amended his motion to extend the time frame within which the Vermeil temporary portable trailer located at the site of the Vermeil cell tower from December 22, 2011 until January 3, 2012 in the event that outstanding amounts due the Township from New Cingular Wireless in the amount of \$4,617.98 is paid on or before January 3, 2012 the extension shall atomically extend to February 21, 2012. Mr. Barach seconded. Vote: Unanimous.

Metro PCS Pennsylvania, LLC – Mr. Pompo presented the Board with a Conditional Use and Order extension for Metro PCS and further explained that Metro PCS meets all the criteria of Act 46, the permit extension act. The \$500.00 fee was also paid. Mr. Amentas made a motion to approve the extension of the Conditional Use and Order for Metro PCS Pennsylvania, LLC from January 25, 2011 to July 1, 2013 according to "Act 46 of 2010." Mr. Makely seconded. Vote: Unanimous.

Delinquent trash accounts – Mr. Amentas informed the public that the township turned over their delinquent trash accounts to Portnoff Law Associates. Collection Specialists, the prior collection agency, would like to keep the ten to fifteen delinquent accounts that already have "payment plans." Mr. Amentas said he wants the names, addresses, and payment terms of those accounts.

Mr. Amentas made a motion to allow Collection Specialists to continue collecting money from approximately ten to fifteen delinquent resident accounts under circumstances where the resident has made payment arrangements with Collection Specialists to satisfy their debt. Mr. Makely seconded. The Board agreed to wait until all the information has been received before they make a motion. Mr. Amentas withdrew his motion.

Branford Development snow removal ordinance – Mr. Kenny Smith, HOA president, presented the Board with a draft ordinance from Philadelphia and the City of Coatesville and would like the Board to create an ordinance for the developments in the township.

Mr. Amentas directed Mrs. Miller to draft a "snow removal" ordinance. Mr. Toth asked Mr. Smith if he knows who the "enforcer" in the City of Coatesville is. The Board agreed that it would be a police issue in our township.

PUBLIC WORKS DEPARTMENT:

November 2011 road and vehicle report – The November 2011 road and vehicle report was presented.

Hiring of Frank Scibek – Mr. Toth presented the Board with a motion to hire resident Frank Scibek as a "snow plower" for the Township on an "as needed" basis. The Board asked if a "criminal" background check was performed. Mrs. Miller replied "Only a driver's check." Mr. Toth made a motion to hire Frank Scibek on an "as needed" basis as a snow plower at the rate of \$15.00 per hour. Mr. Broadbent seconded. Glenn Colyer asked the board who Mr. Scibek is related to. Mr. Amentas replied that he does not know. The Board would like to see a "criminal" background check before they hire Mr. Scibek. Motion is withdrawn.

November 2011 recycling report – The November 2011 recycling report was presented.

EMERGENCY SERVICES:

No reports submitted.

UNFINISHED BUSINESS:

No presentations.

NEW BUSINESS:

Zoning Hearing Board re-appointments – The Board tabled the Zoning Hearing re-appointments until the January 3 re-organization meeting.

PUBLIC PARTICIPATION:

Dennis Crook of 2840 Strasburg Road asked the Board to put the comp plan on the website. Mr. Broadbent stated that the township should rebid the comp plan and pay for it instead of waiting for a grant.

A resident asked the status of the "ATV" ordinance. Mr. Amentas replied that the members of the Board have to visit the Kerstetter's property and see how the ATV's are being ridden.

Bob King of 235 Misty Patch Road asked the Board how many "snow plowers" does the township need. Mr. Toth explained that you need a pool of people because they all are not available when they're needed. Mr. King also asked if citations are being issued to alarm violators and cars that park on the street. Mr. Amentas replied the Board has to inform Chief Porter to start citing the violators.

Mr. Broadbent asked the new Board to put \$35,000.00 in the budget for the new comp plan.

Buddy Rhoades of 2176 Strasburg Road commented on the full time employee vacation time.

Ed Porter of 795 South Caln Road thanked Mr. Barach and Mr. Broadbent for their time as Supervisors. Mr. Porter also asked if there is a vacancy on the "elected auditor" board. Mr. Pompo replied that the vacancy should be on the January 3 re-organization agenda to be filled.

Joe Pomorski of 67 Narragansett Drive thanked Mr. Barach and Mr. Broadbent for their time as Supervisors.

Sharon Scott of 325 Hephzibah Hill Road stated that Coatesville School District shut down for two weeks over Christmas. Mrs. Scott also commented on the PUC meetings. Mrs. Scott asked the Board who pays for Chris Della Penna and the Conservation District's time when they inspect the Fieldstone Development. Mr. Amentas replied that the Conservation District does not bill the township and Mr. Della Penn's time is billed to the "escrow" account.

Dennis Kozlowski of 1100 South Caln Road thanked the Board for their efforts on the Fieldstone Development issue.

Siti Cook of 2840 Strasburg Road asked the Board how residents are supposed to know that there is no parking on the township roads. Mr. Amentas replied that a resident has the obligation to find out what the laws of the township are. Ms. Crook asked the Board if they spoke with Mr. Barach on the September and October unapproved financials. Mr. Barach replied that he will review them and get back to the Board.

ADJOURNMENT: Mr. Amentas made a motion to adjourn the Board of Supervisors meeting at 9:45 PM. Mr. Toth seconded. Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary