

EAST FALLOWFIELD TOWNSHIP  
BOARD OF SUPERVISORS MEETING  
February 28, 2012  
Approved minutes  
6:25 PM

CALL TO ORDER, SILENT MEDITATION, AND PLEDGE OF ALLEGIANCE

IN ATTENDANCE: Chris Makely, Chairman; Chris Amentas, Vice Chairman; Mark Toth, Member; Ed Porter, Member; Joe Pomorski; Member, Denise Miller; Township Secretary, Mark Thompson; Township Solicitor.

Introduction of Mr. Dave Fiorenza – Mr. Amentas introduced consultant Dave Fiorenza, as a part time consult at twenty hours per week for a maximum of ninety days. Mr. Fiorenza works under the umbrella of Local Government Services and has provided municipalities and non-profit organizations with financial management and issues and analysis. Mr. Fiorenza has been instructed, by the Board, to essentially make an assessment of the township and report his findings and recommendations to the Board. Mr. Makely excused Mr. Fiorenza from the meeting.

Executive Sessions - Mr. Makely announced that there were executive sessions on February 10 and February 22 regarding personnel issues.

APPROVAL OF MINUTES:

December 20, 2011 BOS minutes – Mr. Makely made a motion to approve the December 20, 2011 Board of Supervisor's minutes as presented. Mr. Toth seconded. Mr. Makely requested that his conflict of interest regarding "Hidden Valley Estates" be noted in the minutes. Mr. Porter and Mr. Pomorski both abstained. Vote passed.

January 10, 2012 workshop minutes – Mr. Makely made a motion to approve the January 10, 2012 workshop minutes as presented. Mr. Amentas seconded. Mr. Toth abstained. Vote passed.

January 24, 2012 BOS minutes – Mr. Amentas made a motion to approve the January 24, 2012 Board of Supervisors minutes as presented. Mr. Toth seconded. Mr. Porter asked that page four be revised to add "and well as other law firms" after his comment stating that "he hopes Lamb McErlane submits a bid." Mr. Makely directed Mrs. Miller to check the tape for accuracy before making the change. Mr. Makely abstained. Vote passed.

January 26, 2012 budget meeting – Mr. Amentas made a motion to approve the January 26, 2012 budget minutes as presented. Mr. Pomorski seconded. Buddy Rhoades requested that "there was no tape at the meeting" be added into the minutes. Mr. Rhoades also commented on his recommendations made at the budget meeting. Mr. Amentas stated that Mr. Pompo previously stated that the minutes are not verbatim of what residents say, it is a general caption of what they say. Mr. Porter asked Mr. Rhoades what he exactly wanted added to the minutes. Mr. Rhoades replied that he wanted his comments on his recommendation of the comp plan and health benefits added to the minutes. Mr. Makely asked the Board if they are ok with Mr. Rhoades's request. The Board agreed to make those adjustments. Mr. Amentas stated that Bob King also commented on the budget. Mrs. Moore apologized for the minutes and stated that she did not have a tape to transcribe from. The Board directed Mrs. Moore to add the discussed comments to the minutes. Mrs. Moore replied "ok." Mr. Makely and Mr. Toth abstained. Vote passed.

SOLICITOR REPORT:

Mr. Thompson informed the Board that Judge Nagle, Court of Common Pleas, issued an opinioned order on February 3, 2012 granting the township's appeal of the Zoning Hearing Board's issuance of a variance to the "BAWA Fellowship" for the development of their property.

Mr. Thompson informed the Board that the township received a second \$6,000.00 penalty payment from the Hidden Valley Mobile Home Park. Mr. Porter asked Mr. Thompson for more clarification on what the penalty was for. Mr. Thompson replied that the penalty to Hidden Valley Mobile Home Court is regarding environmental issues.

LEGAL ISSUES:

"On-Lot Sewage Management Program and Septage Management Data System" – Mr. Thompson stated that most township's have an on-lot sewage management ordinance with provisions concerning inspections, penalties, and a requirement to pump every two years. The Board tabled this discussion until the next workshop meeting. Mr. Amentas stated that on page one it reads "the Clean Streams Law and the Pennsylvania Sewage Facilities Act, it is the power and the duty of the township to provide for

adequate sewage treatment and disposal facilities for the protection of the public health by preventing the discharge of untreated or inadequately treated sewage.” This suggests that the Department of Environmental Protection, operating under the authority of this statute, is not exercising a great deal of opinion over these facilities so the township should because if they are not managed properly then it could become a major health hazard.

Providence Hill Development report – Mr. Thompson stated that there is a letter of credit and the eighteen month period is going to expire soon. The township engineer Chris Della Penna provided a letter to the Board concerning issues with the dedicated improvements and suggested that the Board authorizes the notice to be provided to the security before March 22. Mr. Amentas asked Mr. Thompson if it is easier to get escrow funds versus calling a bond like this. Mr. Thompson replied that if you are talking about a letter of credit or cash it is as simplistic, in my opinion, as going under a bond. One of the requirements specifically is that you have to give the developer ten business days notice before the expiration of the bond, so they have the opportunity to fix the items that the township engineer identified in his letter. Mr. Amentas asked Mr. Thompson if the scope of issues that are covered by the bond more narrow than the scope that is covered by escrow that is held during the scope of the project. Mr. Thompson replied yes, with respect to escrow during the commencement and completion of the project, you vertically have every improvement which could be turned to quasi-public improvement phase. Mr. Amentas made a motion to provide a ten business day notice to commence corrective work on the Providence Hill Development in accordance with Chris Della Penna’s February 27, 2012 review letter pursuant to the letter of credit for the eighteen month maintenance period for Providence Hill. Mr. Makely seconded. Sharon Scott had several comments and questions regarding escrow. Mr. Thompson stated that the issue with Providence Hill is the maintenance bond for public improvements that have been dedicated to the township, as opposed to the escrow under Section 509 which secures the improvements associated with the initial construction of the development. Providence Hill is at the point where everything has been constructed already. Mr. Porter asked the amount of the maintenance bond. Mr. Makely replied that it is approximately one million dollars. Vote: Unanimous.

Rouse Chamberlin/Longview (bond and storm water) – Representing Longview (“Longview”) Investments, Fei Xue stated that there is an existing 1.4 million dollar performance bond outstanding for Fieldstone Development. Ms. Xue explained that “Longview’s” role in the Fieldstone Development is as a real estate inspection company. They will buy the property, maintain it, and hold onto it until the market gets better, where they can sell it to a home builder who will replace the 1.4 million dollar bond and build out the rest of the development. Ms. Xue stated that she is looking for the township to give “Longview” the assurances that they will not call on the bond to complete the site work while they are holding it. If the township calls the bond then “Longview” will have to replace the cash to Traveler’s Insurance or they will start the foreclosure on the property. Mr. Amentas stated that if there was a problem there would be no mechanism by which to address the problem. Ms. Xue replied that they will promise to do general maintenance such as grass cutting, snow plowing, and they can put into the agreement that if there is any violations that they would fix those. Mr. Thompson stated that the caveat is being what “Longview” is looking for, from the Board, is to direct their office to work with the applicant for a valid agreement that would protect the township. Mr. Makely asked if this would be at “Longview’s” cost. Mr. Thompson replied that it would be the developer’s expense. Mr. Makely stated that he is ok with “Longview” speaking with the township engineer and attorney at their expense. Mr. Amentas stated that his concern is that no one knows when this development will be completed once it gets started. Ms. Xue stated that they can offer some sort of outside deadline to date by which this agreement will expire. Mr. Makely made a motion to authorize the office of Lamb McErlane to work with the representatives of Rouse Chamberlin/Longview and the township engineer at their expense and follow up at the March 27, 2012 Board of Supervisors meeting. Mr. Amentas seconded. Mr. Pomorski seconded. Siti Crook commented on the incomplete site work and their bond. Sharon Scott opposed the motion. Buddy Rhoades stated that a catch basin was never installed in the development and commented on the bond. Mr. Porter and Mr. Pomorski voted nae. Vote passed. The Board requested the attendance of Chris Della Penna at the next workshop.

“Municipal Planning Code” – Mr. Porter asked Mr. Thompson his opinion on Section 509 F. and H. of the Municipal Planning Code which refers to increasing escrow money. Mr. Thompson replied that he has recommended to other townships that they identify developments that have been long term running and have their engineer make a determination if the escrow needs to be increased. Mr. Amentas asked Mr. Thompson what you do if you are holding a bond in lieu of escrow. Mr. Thompson replied that you can require them to increase the amount of security so you can require them to put a new bond in place or add additional security whether it is cash or a letter of credit. Mr. Porter stated that he would like to discuss this further at the next workshop and get Chris Della Penna’s ideas. Mr. Makely directed Mrs. Miller to get a list of the current developments with their escrows and when they were established from Chris Della Penna.

New Cingular Wireless PCS extension (“Vermeil” cell tower) – Mr. Chris Schubert, Riley Riper Hollin & Colagreco, stated that they need an extension because the existing transformer needed an upgrade by PECO before they could start their work. Mr. Makely asked Rosemary Moore if “Vermeil” is current in their payments. Mrs. Moore replied that she believes they are current. Mr. Makely made a motion to extend the time period for the Vermeil property trailer from February 28, 2012 until April 28, 2012. Mr. Toth seconded. Buddy Rhoades commented on the motion. Vote: Unanimous.

Sharon Scott asked Mr. Thompson about the BAWA "Fellowship." Mr. Thompson replied that the BAWA Fellowship proposed forty four lots and the zoning hearing board determined that the ordinance provision did not require an individual 30,000 square foot lot with certain setbacks. Judge Nagle determined that the applicant was not entitled and was required to have a certain separation between the houses, certain setbacks, and minimum land areas which would reduce the number of lots. Dennis Crook stated that Mr. Thompson stated "30,000 square feet per lot" and Longview was approved for 15,000 square feet per lot. Mr. Crook also stated that he believes the township already set precedence for this. Mr. Thompson replied "These were clustering provisions that "Fellowship" had made applications under which no longer exists in the township and allowed them to cluster a certain number of lots in an area and have open space surrounding those lots and multiple other uses such as the workshop area and proposing certain other uses. Mr. Makely reminds the Board, as per Mr. Pompo, this is probably going to be appealed so be careful with your comments on this subject until they know whether or not it will go to court again. Siti Crook requested that Mr. Makely recluse himself because of his discriminatory statements that he made against her as a "Fellowship" member.

The Board excused Mr. Thompson from the Board of Supervisor's meeting.

#### CITIZENS by REQUEST:

Sharon Scott stated that the budget was done unprofessional, incomplete, and jimmy rigged. Mrs. Scott requested that the Board consider the enactment of an ordinance requiring no constructed within 1,800 feet within the Dennis Run Stream.

Mr. Porter asked the Board if they know who governs the way that the township reports their accounting. Rosemary Moore replied that Jill Bukata completely did the budget and used the Department of Community and Economic Development ("DCED") chart of accounts. Mr. Makely directed Mrs. Moore to ask Mr. Fiorenza if you have to use the "DCED" chart of accounts.

Buddy Rhoades commented on Fairview Design, issues being tabled, and other township matters. Mr. Makely requested a "speed sign" placed on Misty Patch and South Caln Road. Mr. Makely instructed Mrs. Miller to put the ATV ordinance and the snow ordinance on the next workshop for discussion and on the March 27 agenda for a vote. Mr. Pomorski stated that Mr. Amentas made a motion to advertise the snow ordinance at the last meeting and then withdrew it.

Siti Crook – Ms. Crook stated that if Mr. Makely attends an Executive Session regarding the "Fellowship" he should recluse himself. Mr. Makely stated that he will do what he feels is necessary. Mrs. Crook replied that if he doesn't recluse himself, she will send all the discriminatory information that she has on him to the appropriate entities. Ms. Crook would like to see the "bids" from the solicitor's advertisement. Mr. Makely directed Mrs. Miller to put that on the next workshop for discussion. Mr. Amentas stated that it seems to him that Ms. Crook is blaming the township for the expenditure of legal fees. Mr. Amentas further stated that the township won the lawsuit and if there are any future legal fees it will be because the "Fellowship" appealed the decision. The reason why the Board filed the law suit is because the "Fellowship" did not adhere to the ordinances in the first place. Ms. Crook reads a quote from the Philadelphia Inquirer. Mr. Amentas replied that when he ran for supervisor he said that he will insist that developers follow the rules of the township. This is why the law suit was filed in the first place.

#### TREASURER'S REPORT:

December 31, 2011 treasurer's report – Mr. Amentas made a motion to approve the December 31, 2011 treasurer's report as presented. Mr. Toth seconded. Mr. Pomorski and Mr. Porter abstained. Vote passed.

December 2011 payment authorization – Mr. Amentas made a motion to approve the December 2011 payment authorizations as presented. Mr. Toth seconded. Mr. Pomorski and Mr. Porter abstained. Vote passed.

January 31, 2012 Treasurer's report – Mr. Porter asked what the check for "PMRS" stands for. Mrs. Moore replied "Pennsylvania Municipal Retirement System." Mr. Porter also asked what the check for "Bestboy audio" is for. Mrs. Moore replied that is for the meeting room updated microphone system. Mr. Amentas made a motion to approve the January 31, 2012 treasurer's report as presented. Mr. Toth seconded. Sharon Scott questioned a few invoices that were paid. Vote: Unanimous.

January 2012 payment authorizations – Mr. Makely made a motion to approve the January 2012 payment authorizations as presented. Mr. Toth seconded. Vote: Unanimous.

#### PARK AND RECREATION COMMISSION:

February 2012 summary report presented – The February 2012 Park and Recreation Commission summary report was presented.

Cancellation of the ("SSM") (Spotts, Stevens & McCoy) Group Inc. contract – Mr. Brian Carling asked the Board for approval to cancel the existing contract with "SSM" Mr. Makely made a motion for the Park and Recreation Commission to proceed with the

cancellation of the "SSM" contract and to proceed with E. B. Walsh Associates as the replacement contract at the amount of \$1,982.00. Mr. Pomorski seconded. Mr. Porter asked Mr. Carling if both contracts are the same. Mr. Carling replied that the "SSM" contract was for approximately \$4,500.00. Sharon Scott commented on the motion. Vote: Unanimous.

Mr. Carling asked the Board who will write the termination letter to the "SSM" Group. Mr. Makely replied "Rosemary Moore."

Version A, Version B, or the draft township park ordinance without Section 3 – Mr. Carling explained that Version A is for the facility use permit, Version B is for a reservation process, and Section 3 is dropping such language from the ordinance all together. Mr. Carling would like the proposed ordinance placed onto the website for one month for resident input. Ms. Jan Bowers stated that the Park and Recreation Commission ("P&RC") recommended Version A based on their research with other municipalities and other investigations. Mr. Amentas asked Ms. Bowers why she thinks that "permitting" is better than "reservations." Ms. Bowers replied that the permit process would best protect the township and therefore the interests of the township residents at large. Mr. Amentas stated that the "permitting" process would put more administrative responsibilities on the office staff so why can't you have the same scope of requirements. Ms. Bowers replied that the "permitting" process has a more thorough application process. Mr. Porter stated that he is concerned with the proximity of the playground to the pavilion. Ms. Bowers replied that they are tightening up the language in the ordinance to keep the township not responsible whether or not someone's event is effective by another park user. Mr. Makely, Mr. Toth, and Mr. Pomorski are in favor of Version A. The Board agreed with the "P&RC" moving forward with Version A.

Harker Gardening Service – Mr. Makely made a motion to approve Harker Gardening LLC to perform rain garden and landscape maintenance within the township park at a not-to-exceed contract value of \$3,075.00. Mr. Toth seconded. Buddy Rhoades asked several questions and made comments on the motion. Mr. Makely asked Mr. Carling if this was put out to bid. Mr. Carling replied that it was not because they feel that Mr. Harker is the right person to do the job. Sharon Scott asked several questions about the motion. Jennifer Kerstetter commented on the motion. Mr. Porter asked what account this will be paid from. Mr. Makely replied "The Park and Recreation Fund." Ms. Bowers stated that she is not sure what fund this should be paid from. Mr. Makely asked Mrs. Moore to confirm what fund this payment should be paid from. Mr. Amentas stated that he would like the contract to include a not-to-exceed amount, insurance and more standard contract information. Mr. Amentas would also like some assurance on what being done is justified the fee. Buddy Rhoades stated that the Brandywine Conservancy will tell you what plants to plant. Mr. Makely asked Mr. Carling to have the contract revised. Mr. Makely amended his motion to add "based upon the contract having a not-to-exceed price and accompanied by the township contract." Vote: Unanimous. Mr. Porter asked Mr. Makely if Mr. Harker is still on the "P&RC" Mr. Makely replied "no." Mr. Amentas and Mr. Porter opposed. Vote passed.

East Fallowfield Cub Scouts Pack 219 "crossing over" ceremony – Mr. Amentas made a motion to allow Cub Scout Pack 219 to hold their "crossing over" ceremony at the township park on March 16, 2012. Mr. Makely seconded. Vote: Unanimous.

Mr. Porter stated that the township may have outstanding "fee in lieu" of money owed to the township. Mrs. Miller stated that the \$1,500.00 "fee in lieu" of money is paid when a developer picks up and pays for their permit. Ms. Bowers stated that nearly 100% of "fee in lieu" of money that has been received has been spent on park improvements. The balance of the Park and Recreation Fund is not directly related to the number of houses built. Mr. Porter asked Ms. Bowers when the "fee in lieu" of money switched from \$500.00 to \$1,500.00. Ms. Bowers replied that she does not know. Mr. Porter stated that he would also like to know the amount of "fee in lieu" of money received and the number of houses built. Mrs. Moore stated that in 2004 there are individual payments of \$500.00 and then it switched to \$1,500.00. Mrs. Moore also stated that there are huge deposits with no detail to show what they represent.

HISTORICAL COMMISSION:  
No reports submitted.

PLANNING COMMISSION:  
December 5, 2011 minutes – No presentation – see report.

Mr. Porter stated that in Section 207 of the Municipal Planning Code it states "the commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to the governing body."

POLICE DEPARTMENT:  
January police report – The January 2012 police report was presented. Mr. Amentas asked Chief Porter for an update on the Coatesville "lockup" situation. Chief Porter replied that the police were paying \$1,500.00 per year to use the Coatesville "lockup." Moving forward the fee will be \$187.50 per prisoner. Buddy Rhoades commented on the "lockup" fees and requested the final cost of the 2012 Dodge Charger. Mr. Makely asked Chief Porter to provide this information for the next meeting.

Transfer of the S.W.A.T van – Chief Porter stated that he will be attending an Chief Executive meeting, for the S.W.A.T team, where they will determine who will take over the title of the S.W.A.T van.

**PUBLIC WORKS DEPARTMENT:**

January 2012 road and vehicle report – No presentation – see report.

January 2012 recycling report – No presentation – See report

Upgrade all emergency lighting and the installation of three electric heaters – Mr. Rob McLarnon inspected the township office and submitted a report to the Board of Supervisors of his findings. Mr. Porter suggested the possibility of selling the police station and moving them to the township meeting room. Mr. Makely asked Chief Porter if there is security issues involved in an independent police station. Chief Porter replied “yes.” Mr. Porter stated that the emergency lighting is a code violation and the heat in the hallway and bathrooms are working conditions for the employees. Mr. Porter asked Tag Gathercole if Mr. Harrington looked to see if he could dump a register into the hallway. Mr. Gathercole replied that Mr. Harrington is an electric contractor. Mr. Amentas would like a contract for the work to be performed. Mr. Gathercole asked if he can get this approved contingent on getting a contract. Mr. Makely stated that the “standard contract” written by Mr. Pompo should be used. Mr. Makely instructed Mrs. Miller to inform Brian Carling that he will need a contract for Harker Contracting. Mr. Gathercole asked the Board the amount he can spend without a contract. Mr. Makely replied “anything over \$500.00.”

Mr. Gathercole stated that the township fire marshal recommended the removal of one of the vestibule walls and asked the Board if he can proceed forward with the removal. Mr. Makely asked Mr. Gathercole if he has a plan or drawing. Mr. Gathercole replied “no.” Mr. Gathercole stated that he will make it look professionally as possible. The Board agreed to have the road crew do the work needed.

Hiring of John Primus as snow plower – Mr. Makely made a motion to hire John Primus as township snow plower on an as needed basis at \$15.00 per hour. Mr. Toth seconded. Buddy Rhoades commented on the two bridges that are closed and the water problem on Doe Run Church Road. Mr. Porter and Mr. Amentas abstained. Vote passed.

**EMERGENCY SERVICES:**

Modena January 2012 fire report – No presentation – see report.

**UNFINISHED BUSINESS:**

Zoning Hearing Board appointment (“ZHB”) (Chris Rechenberg) – Mr. Makely made a motion to re-appoint Chris Rechenberg to the (“ZHB”) for the 2012-2014 term. Mr. Toth seconded. Mr. Amentas stated that he is not taking any position on Mr. Rechenberg one way or the other but the Board cannot ignore the fact that there have been multiple appeals of the “ZHB” decisions over the last couple of years. Mr. Amentas also stated that there have been comments and complains on the township increasing legal fees. The legal fees increased because the township had to spend legal fees on their appeal to the “ZHB.” Mr. Makely stated that the Board could ask the “ZHB” for a mission statement to make sure that they are following the ordinances of the township. Sharon Scott commented on the motion. Dennis Crook commented on the “ZHB” and the comp plan. Vote: Unanimous.

**NEW BUSINESS:**

Discussion on investigating a new insurance – Mr. Amentas stated that the Board asked Mr. Fiorenza to investigate new insurance for the township.

Shredding event – Mr. Makely informed the public that there is a shredding event flyer in the back of the room.

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**PUBLIC PARTICIPATION:**

Siti Crook of 2840 Strasburg Road suggested that the township get an “energy audit” for the township office.

Coatesville Library president John Levan asked the Board for a 2012 library donation. The donation is based on the townships \$1.00 per capita and comes to approximately \$7,400.00. Mr. Levan would like to put the library’s information onto the township website and offered to let the township put their information onto the library’s website and the use one of their rooms if needed.

Sharon Scott of 325 Hephzibah Hill Road asked about her right-to-know request regarding the Board’s response letter to the 2008 and 2009 audit. Mr. Makely replied that there is no such letter. Mrs. Scott also asked about her escrow right-to-know request. Rosemary Moore stated that she printed out the request and it came to a total of \$106.00. Mrs. Scott stated that as an elected auditor of the township she should get this information for no charge. Mrs. Miller stated that PSATS disagreed and said that an elected auditor is to be treated like resident requesting information.

Mr. Makely asked Mr. Amentas to check and see if an elected auditor has to pay for copies.

Mrs. Kerstetter of 195 Wilmington Road stated that they had a complaint about riding their dirt bikes at 2:30 PM, so they conducted an experiment and ran a chain saw for one hour and they received no complaints. Mrs. Kerstetter also stated that she checked on the right to enjoyment of your property and this is something that should be handled in court. Mr. Amentas stated that Mrs. Kerstetter is referring to a private nuisance; the question then would be whether or not it's something that would be a problem for a reasonable person's standard. Mr. Amentas would like Mrs. Kerstetter and Mr. Davis to email him their schedules for the next several weeks so he can conduct a survey regarding the dirt bikes.

Buddy Rhoades of 2176 Strasburg Road talked about the windshield survey, the "Moser" resolution and stated that the designation of the right-to-know liaison was not in the minutes. Mr. Rhoades suggested taking the \$1,300.00 from the Historical Commission and giving it to the Coatesville Library.

Mr. Makely stated that the library, residents requesting the update of the comp plan, and fire departments are underfunded. Mr. Makely stated "if the township starts giving, the residents of this township better get ready for a real estate tax, because it's coming. It may not be this year but it's in the future."

ADJOURNMENT: Mr. Amentas made a motion to adjourn the Board of Supervisors meeting at 9:40 PM. Mr. Toth seconded.  
Vote: Unanimous.

Respectfully Submitted,

Denise Miller,  
Township Secretary