

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
April 17, 2012
Unapproved minutes
6:34 PM

CALL TO ORDER, SILENT MEDITATION, AND PLEDGE OF ALLEGIANCE

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

EXECUTIVE SESSION: Mr. Amentas announced that there was an executive session on April 9, 2012 at 5:30 PM regarding personnel issues.

APPROVAL OF MINUTES:

March 13, 2012 workshop minutes – Mr. Amentas made a motion to approve the March 13, 2012 workshop minutes as presented. Mr. Pomorski seconded. Mr. Makely abstained. Vote passed.

March 27, 2012 BOS minutes – Mr. Amentas made a motion to approve the March 27, 2012 BOS minutes as presented. Mr. Pomorski seconded. Mr. Porter would like the comment “Mr. Porter tried to persuade Mr. Pomorski to vote for John Carnes” stricken from the minutes. Dennis Kozlowski would like his comment under “citizens by request” changed to “he thanked the Board for their help in getting the Fieldstone Development flooding issue resolved.” Mr. Amentas amended his motion to approve the March 27, 2012 minutes as presented with two changes: on page four the comment “Mr. Porter tried to persuade Mr. Pomorski to vote for John Carnes” will be stricken, and page five under “citizens by request” Mr. Kozlowski’s comment amended to “Mr. Kozlowski thanked the Board for their help in addressing Fieldstone Development’s runoff issues.” Mr. Toth seconded. Mr. Makely abstained. Vote passed.

April 9, 2012 special meeting minutes – Mr. Amentas made a motion to approve the April 9, 2012 special meeting minutes as presented. Mr. Pomorski seconded. Vote: Unanimous.

CITIZENS by REQUEST:

Buddy Rhoades – Mr. Rhoades talked about the Fieldstone Development bond, trash issues, and the township insurance. Mr. Rhoades also asked the Board to reduce the speed limit on South Caln Road and Misty Patch Road.

Siti Crook – Possible sunshine law violation between Chris Amentas and Chris Makely – Ms. Crook questioned when Mr. Amentas said that Mr. Makely would vote “no” for the ATV ordinance. Mr. Amentas replied that his comment was based on Mr. Makely’s previous comments. Ms. Crook further spoke about the sunshine law requirements.

Dennis Kozlowski – Fieldstone Development (“Fieldstone”)/flooding on South Caln Road – Mr. Kozlowski thanked the Board, for himself and on behalf of his neighbors, for their help trying to solve the flooding issues brought on by “Fieldstone.” Mr. Kozlowski also spoke about the temporary holding basin in “Fieldstone” and said that Mr. Della Penna told him that his recommendation is to enlarge it. Mr. Amentas replied that the Board needs clarification from Mr. Della Penna regarding this. Mr. Kozlowski also talked about the Fieldstone bond.

Officer Fonock announced that the township is participating in the National Prescription Drug “take back day” to be held in the township office on Saturday April 28, 2012 from 10:00 AM to 2:00 PM.

SOLICITOR REPORT:

No report submitted.

LEGAL ISSUES:

Mr. Pompo gave the Board and the audience an update on the Longview Fieldstone L.P. “Longview” agenda items. Mr. Pompo stated that based upon the April 13, 2012 workshop meeting, there was an amendment made to the proposed First Amendment to the Subdivision and Land Development agreement. Minor changes occurred but most importantly the Board had requested that a term be set forth in the agreement. A term was added stating that the period of the agreement would be for five years if not

terminated sooner under the terms of the agreement itself. Per Fai Xue, "Longview" would not consider a shorter term than five years.

The escrow agreement had minor changes such as typographical corrections, filled in dates, and the names of the Board inserted into the signature block.

The stormwater infiltrator #4 agreements will be signed by East Fallowfield Township, Longview Fieldstone L.P. and Rouse Chamberlin "Rouse." "Rouse" needs to sign as receiver because under the agreement "Rouse" would be the entity that will actually be installing the infiltrator call S-4. "Rouse" proposed some amendments that included a specific reference to the final utilities and grading plans, which would be attached to the exhibit under which infiltrator #4 is described. They also requested forty five days, after May 1, rather than thirty days, plus added that they would be given additional time to complete the work in the event that there was adverse weather, strikes, labor disputes, and an act of god etc. As drafted, the work would be subject to the reasonable inspection and review by the township engineer, including that the final completion of the work would be subject to the review and approval of the township engineer as well as a provision in the agreement for the payment of township expenses.

Mr. Pompo informed the Board, per Ms. Xue, for purposes of this transaction, "Longview" no longer wishes to proceed with a modification to the approval regarding the prohibition involving front loaded garages. Mr. Amentas asked Mr. Pompo "what is the receiver's obligation to install the infiltrator #4 notwithstanding this agreement." Mr. Pompo replied that the receiver is supposed to be maintaining the development in accordance with the plan. In previous conversations with "Rouse" they indicated that they would have to get board approval in order to spend money. Jonathan Penders, "Rouse", stated that as a receiver their rights come from the Federal Court and their authorization is described in a very detailed fashion within that order. If they deviate outside that order they placed, "Rouse" would cross a line and be perceived as "not the receiver" in the actions they take.

Mr. Porter stated that if the township went after the performance bond and the \$90,000.00 in escrow to make the improvements it would make the development more appealing to a developer to buy the property.

Denis Weiner of 63 Pelham Drive had several questions and comments concerning the Fieldstone Development. Mr. Weiner also stated that it is a "conflict" for Mr. Pompo to write the contracts. Mr. Pompo replied that the Board approved him doing so in a public meeting. Both agreements were sent to "Longview", "Rouse", and the "in house" council. Mr. Amentas asked Mr. Weiner if it is the consensus of the residents that they do not want the deal to go through. Mr. Weiner replied "in speaking for myself, I say no." Mr. Amentas asked the "Fieldstone" residents to stand up and say yes or no if they want the Longview Fieldstone deal to go through. Brandon Waterman and Wanda and Steven Horrocks replied "no." Dennis Kozlowski of 1100 South Caln Road also said "no." Jonathan Penders asked Mr. Amentas to ask the residents what they want to see happen with their development situation. Mr. Amentas asked the residents what they want to see for their development. Mr. Weiner stated that the residents are "giving" and they only received one concession. Mr. Weiner asked the Board if there is anything that would prevent the nine residents from buying the property. Mr. Porter replied that this investment group is an opening bid that will go to auction where anyone can make a bid. Dennis Kozlowski explained his "no" response. Mr. Penders stated that if the Township chose to go after the bond, it would facilitate the sale of the property and broaden "Rouse's" option of potential buyers. Mr. Amentas stated that under the circumstances the Board cannot approve this transaction at this time.

Mr. Amentas called a ten minute recess for an executive session regarding the Bawa Fellowship Development.

Bawa Fellowship ("BAWA") settlement discussion – Mr. Amentas announced that the Board of Supervisors have reached an agreement. Mr. Pompo informed the audience that the Board met in an executive session to discuss a matter in litigation, specifically a pending appeal in Commonwealth Court, filed by "Bawa" against the decision of Judge Nagel in the Court of Common Pleas that reversed the decision of the Zoning Hearing Board. Attorney John Good submitted a March 20, 2012 settlement letter with essentially the same offer from the township, memorialized in his April 29, 2010 letter. The settlement terms are: an agreement that the layout of the proposed development would be in accordance with a sketch plan that was originally developed and prepared by Tom Comitta, Township Architect, and revised by D.L. Howell and Associates, "BAWA" Engineer, which shows the layout of 23 lots, a thru road through the development or a cul-de-sac road with emergency access to Timacula Road. They also asked that the Board agree that individual on-site water wells and individual on-site sewer systems be used rather than the community public water and sewer that is required by an ordinance, and an agreement that the pending conditional use application would be continued and proceeded with, to a conclusion subject only to the resolution of the issue that is discussed tonight, of which would have to be reduced to a settlement agreement to be approved by the parties and ultimately approved by the court. Mr. Amentas made a motion to settle the ongoing litigation with the Bawa Fellowship in accordance with the terms set forth in Mr. Good's March 20, 2012 letter to Mr. Pompo pending the preparation and execution of an appropriate written settlement agreement. Mr. Pomorski seconded. Vote: Unanimous.

Appointment of Township Zoning Hearing Board Solicitor – Buckley, Brion, McGuire, Morris & Sommer LLP at \$150.00 per hour (reduced \$35.00), Butera, Beausang, Cohen, and Brennan at \$150.00 per hour, Parke, Barnes, Spangler, Oeste & Wood at \$160.00 per hour, Law Offices of John S. Carnes Jr. at \$135.00 per hour. Mr. Amentas recused himself from the appointment of a Township Zoning Hearing Board Solicitor and the Township Solicitor. Mr. Pomorski stated, for the record, that he is on or belongs to: the Fund Development Committee, Board of Directors for the Art Partners Studio, Treasurer for the Area 15 Republican Party, Rotary Club International/King of Prussia Chapter, Board of Directors and the Real Time Strategic Analysis Study for the for the Brandywine Valley YMCA, Banking Advisor and Board of Directors for F4 Incorporated, Treasurer for Amentas for PA Senate, and the Reagan Club. Mr. Toth made a motion to appoint the Offices of John Carnes Jr. as the East Fallowfield Township Zoning Hearing Board Solicitor at a rate of \$135.00 per hour. Mr. Pomorski seconded. Vote: Unanimous.

Appointment of Township Solicitor – Law Offices of John S. Carnes, Jr. at \$135.00 per hour, Lamb McErlane Attorneys at Law at \$190.00 (reduced \$5.00), Parke, Barnes, Spangler, Oeste, & Wood at \$160.00 per hour. Mr. Toth made a motion to appoint Lamb McErlane as the East Fallowfield Township Solicitor at a rate of \$190.00 per hour. Mr. Makely seconded. Siti Crook made several comments on the motion such as excessive legal fees and Mr. Amentas recusing himself on certain issues. Mr. Toth stated that the Board has made a conservative effort to cut down on legal fees. Mr. Porter speaks on behalf of the finances of the township and would like to go with the lowest bid per hour. Bob King commented on the auditors vote and the savings by going with the lowest bid. Siti Crook commented on Mr. Amentas abstaining on certain township business and the effect it could have on a vote. Mr. Porter did not vote. Vote passed. Mr. Amentas replied to Ms Crook's comment on recusing himself by stating that unless the matter that he would be asked to vote on implicates, either directly or indirectly, his relationship with the solicitor or his firm's relation with his committee, there is no conflict. Siti Crook stated that Mr. Amentas' vote to authorize Mr. Pompos's fees paid by Longview Investments is a conflict. Mr. Amentas replied that he doesn't think this was a conflict. Mr. Makely stated that it is not uncommon to have legal fees paid by others.

Mr. Makely excused himself from the BOS meeting.

Dewey Homes/default letter – Mr. Amentas made a motion to authorize Mr. Pompo to issue a default letter to Dewey Homes pertaining to their failure to alleviate deviations from the approved permit plan in connection with Lot 104-119 Cyprus Lane in accordance with the memo from Mr. Della Penna to Dewey Homes dated April 16, 2012. Mr. Toth seconded. Mr. Porter asked Mr. Amentas if he wrote a letter, outside of the Board, to the residents of Lot 104. Mr. Amentas replied "no, but he was a party to emails, from years ago, involving the residents and Dewey with respect to their problem". Mr. Amentas withdrew his prior motion. Mr. Amentas made a motion for the Board of Supervisors to issue a letter to Dewey Homes specifying that they will agree to implement the permit plan prepared by D.L. Howell dated January 3, 2011 to rectify deviations from the approved permit plan for Lot 104-119 Cyprus Lane in Manchester Farms in accordance with Chris Della Penna's memo of April 16, 2012. If Dewey Homes does not agree to implement the plan within the specified time frame then the township will proceed with preparing a "default" without any further notice. Mr. Pomorski seconded. Bob King commented on the Board getting involved in a problem that they should not be, changing the plans, and the cost of the work. Mr. King also asked Mr. Amentas if he would help anyone in the township with the same problem. Mr. Amentas replied that he would help any resident just like he is helping Ms. Kile and Mr. Branca. Vote: Unanimous.

55 Carlin Drive "At-Grade bed" sewer system – Mr. Pompo informed the Board that he researched, on his own time, the "Critical Maintenance Notice" form. Mr. Pompo stated that the Health Department created an unwritten policy that requires certain types of on-lot sewer systems to have a Critical Maintenance Notice. Mr. Toth asked Mr. Pompo if this form is connected to the Stormwater Maintenance Program. Mr. Pompo replied that it can be, but only the Department of Environmental Protection can require it. The Health Department's concern is that the township knows that these types of systems can cause serious maintenance problems and give the township the opportunity to acquire a separate agreement. Mr. Pompo stated that he will provide the Board with a sample "Operation and Maintenance agreement" for the May 22, 2012 BOS meeting.

TREASURER'S REPORT:

March 31, 2012 Treasurer's report – Mr. Amentas asked Mrs. Moore the status of the earned income tax. Mrs. Moore replied that \$264,100.00 has been collected to date with an increase of \$69,395.00 from last year. Mr. Amentas made a motion to approve the March 31, 2012 Treasurer's report as presented. Mr. Toth seconded. Vote: Unanimous.

March 2012 payment authorizations – Mr. Amentas made a motion to approve the March 21-April 17, 2012 payment authorizations with the exception of item 21107 which reflected a payment to Lamb McErlane in the amount of \$2,187.81. Mr. Toth seconded. Vote: Unanimous.

Mr. Toth made a motion to authorize payment 21107 to Lamb McErlane PC in the amount of \$2,187.81 for the payment authorization period of March 21-April 17, 2012. Mr. Pomorski seconded. Mr. Amentas abstained.

"Paychex" HR Solutions – Mrs. Moore presented the Board with a service proposal from "Paychex" for completion of the employee handbook, and other services. The Board agreed to further discuss the employee handbook in an executive session.

POLICE DEPARTMENT:

March 2012 police report – The March 2012 police report was presented by Chief Porter.

Chief Porter asked the Board for authorization to hire two part time police officers. Mr. Pomorski asked Chief Porter if he had a part time police officer that he would like to make full time. Chief Porter replied "yes." Mr. Toth asked Chief Porter how many officers are out on "medical leave." Chief Porter replied that two officers are on workers compensation and one is working light duty because she is pregnant. Chief Porter stated that he has seven full time officers and four part time officers that cover the township 365 days a year. Mr. Amentas asked what happens if the Board doesn't approve his request. Chief Porter replied "reduced service." Mr. Pomorski made a motion to authorize Chief Porter to hire two part time police officers on an as needed basis. Mr. Pomorski asked Chief Porter if he had two officers to hire now. Chief Porter replied "Geoffrey Burkhardt and William Smith Jr."

Police fundraiser – Mr. Pomorski suggested having a concert in the park as a fund raiser. Mr. Amentas stated that he will contact the Coatesville County Club to see if they have the venue needed. The Board agreed to further discuss the fund raiser at the May 8 workshop.

PARK AND RECREATION:

Draft SSM Group, Inc. letter to Mr. Pendzick – The SSM Group was retained to prepare a C2P2 grant for the Park and Recreation Commission but produced no work to that effect. The Board previously approved to send the SSM Group a letter dissolving their contract with the township.

HISTORICAL COMMISSION:

March 2012 approved minutes – The March 2012 approved minutes were presented.

PLANNING COMMISSION:

No reports submitted.

PUBLIC WORKS DEPARTMENT:

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

March 2012 recycling report – No presentation – See report

Township outside sign – Mr. Porter would like to see if the Boy Scouts could build a new sign for the township.

Putting fuel out to bid – Mr. Porter would like to pursue putting the fuel purchase out to bid.

Model 1800 hydraulic conveyor belt – Mr. Toth made a motion to purchase a hydraulic truck conveyor belt model # 1800 through COSTARS at the purchase price of \$10,681.00 to be paid from the Liquid Fuels Fund. Mr. Pomorski seconded. Glenn Colyer asked the purpose of a conveyor belt. Mr. Toth replied that the conveyor belt feeds and controls the amount of asphalt that comes out. Vote: Unanimous.

Donation of 1998 recycling truck – Valley Township has offered the township a 1998 recycling truck that they purchased through the Department of Environmental Protection ("DEP.") If the truck was ever sold, 92.6% of the money would have to be returned to the "DEP." Mr. Amentas made a motion accept the donation of Valley Township's 1998 International recycle truck. Mr. Toth seconded. Vote: Unanimous.

EMERGENCY SERVICES:

March 2012 Pomeroy report – No presentation – See report.

UNFINISHED BUSINESS:

Comcast \$5,000.00 video payment – Mr. Porter stated that Kevin Broadhurst, Comcast representative, said that if the Township is still interested in the \$5,000.00, without buying the video equipment, the township would have to sign a five year franchise agreement. The Board agreed to further pursue their option and directed Mrs. Miller to see if Mr. Broadhurst would attend a workshop to discuss this matter further.

Township infrastructure – Mr. Porter stated that he asked Barry “Tag” Gathercole to provide the Board with a list of township roads that need to be updated. Mr. Amentas asked if Liquid Fuels was used to repair any roads in 2011. Mrs. Moore replied “Hephzibah Hill Road.”

Mr. Amentas informed the audience that the Board is not sure what the “buffer zone” is going to be for the ATV ordinance. Mr. Amentas directed Mrs. Miller to make the previous changes that the Board made, for the May 8 workshop. Mr. Amentas stated, for the record, that he doesn’t agree with Mr. Porter’s comment to the Board that he is trying to save the township some money and the Board is obstructing him. Mr. Porter replied the he doesn’t think that anyone is blocking him but doesn’t know where else he could save money other than the area that he presented.

NEW BUSINESS:

Jennifer Kerstetter of 195 Wilmington Road suggested making the ATV ordinance “buffer zone” feet from a residential dwelling instead of a property line. Mrs. Kerstetter also asked Mr. Pomorski to elaborate on his idea about a concert in the park event. Mr. Pomorski replied that he has been talking with resident Michael Green on compiling information to have a concert in the park.

John Davis of 224 Wilmington Road asked the Board if they received any recent ATV complaints. Mr. Toth replied that he received a recent email from a resident on Old Wilmington Road. The resident also asked the Board to keep the “buffer zone” from the property line.

Dennis Crook of 2840 Strasburg Road commented on the mounds of dirt and the open grates in the Fieldstone Development. Mr. Crook also asked for an update on the comp plan. Mr. Toth replied that the Board has to decide by June if the township is going to pursue the grant. Mr. Crook also commented on having a “park day” event in the park.

Nancy Simes of 1508 Robin Road is concerned with cars intentionally hitting and killing cats on her road. Mrs. Simes also commented on the speed limit on Robin Road. Mr. Amentas replied that you have to catch someone in the act of hitting a cat, and then prove it was intentional. Chief Porter stated that the speed limit is state statute, and that a vehicle has to go over ten miles per hour above the speed limit before they can be stopped.

Siti Crook of 2840 Strasburg asked the Board if Longview Investments has paid their attorney fees and is there an agreement in writing. Mr. Amentas replied that based on his discussion with Mr. Pompo they have not been paid yet and he is not sure if there is an agreement in writing. Ms. Crook stated that the “fund raiser” could be put in the next newsletter, and asked about the “access channel.”

Bob King of 235 Misty Patch Road asked the Board for a “consultant” update. Mr. Amentas replied that the Board cannot give a complete update when the report is submitted because it has personnel matters included.

Mr. Toth asked Mrs. Moore when Mrs. Bukata will have the 2010 audit information completed. Mrs. Moore replied that Mrs. Bukata has said she spent eight hours on it so far, and is working on getting it completed.

PUBLIC PARTICIPATION:

ADJOURNMENT: Mr. Amentas made a motion to adjourn the Board of Supervisors meeting at 10:55 PM. Mr. Toth seconded. :
Vote: Unanimous.

Respectfully Submitted,


Denise Miller
Township Secretary

EAST FALLOWFIELD TOWNSHIP

MEMORANDUM FOR DISCLOSING A CONFLICT OF INTEREST IN ACCORD WITH SECTION 1103(j) OF THE PUBLIC OFFICIAL AND EMPLOYEE ETHICS ACT, 65 PA.C.S. § 1103 (j) (FILE WITH PERSON RESPONSIBLE FOR RECORDING THE MINUTES OF THE MEETING)

Pursuant to Section 1103(j) of the Public Official and Employee Ethics Act

("Ethics Act"), 65 Pa.C.S. § 1103 (j), this written memorandum will serve to disclose

that I, Christopher J., in my capacity as a Supervisor of
(name) Amentas (public position held)

EAST FALLOWFIELD TOWNSHIP am abstaining from agenda item 7b,
motion to pay item 21107/2,187.81 (number,
to Lamb McErlane for the regular/special meeting of
(letter or other identifier of agenda item)

4/17/12 pertaining to march 2012 payment, due to a conflict
(date) (description of agenda item) authorizations.

of interest under the Ethics Act. The nature of my interest is as follows:

Lamb contributes to Republican Committee
of Chester County, which contributes to
my State Senate campaign.

(provide a description of the nature of the interest, for example, "my son I applying for the job," or "my employer is bidding on this project")

Date: 5/9/12

[Signature]
(signature)

EAST FALLOWFIELD TOWNSHIP

MEMORANDUM FOR DISCLOSING A CONFLICT OF INTEREST IN ACCORD WITH SECTION 1103(j) OF THE PUBLIC OFFICIAL AND EMPLOYEE ETHICS ACT, 65 PA.C.S. § 1103 (j) (FILE WITH PERSON RESPONSIBLE FOR RECORDING THE MINUTES OF THE MEETING)

Pursuant to Section 1103(j) of the Public Official and Employee Ethics Act

("Ethics Act"), 65 Pa.C.S. § 1103 (j), this written memorandum will serve to disclose

that I Christopher J. Amca, in my capacity as a Supervisor of (name) (public position held)

EAST FALLOWFIELD TOWNSHIP am abstaining from agenda item (number,

_____ for the regular/special meeting of letter or other identifier of agenda item)

4/17/12 pertaining to appointment of zoning hearing board and township due to a conflict of interest under the Ethics Act. The nature of my interest is as follows: Solicitor 5

Current firms contribute to Republican Committee of Chester County, which contributes to my campaign

(provide a description of the nature of the interest, for example, "my son I applying for the job," or "my employer is bidding on this project")

Date: 4/17/12

[Signature]
(signature)