

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
June 26, 2012
Approved minutes

Mr. Amentas called the Board of Supervisor's meeting to order at 6:37 PM with a moment of silent meditation and the 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; Rosemary Moore, Township Treasurer; Vince Pompo, Township Solicitor Township Engineer Chris Della Penna was also present as requested by the Board.

APPROVAL OF MINUTES:

May 8, 2012 workshop minutes – Mr. Amentas made a motion to approve the May 8, 2012 workshop minutes as presented. Mr. Pomorski seconded. Mr. Makely and Mr. Toth abstained. Vote passed.

May 22, 2012 BOS minutes – Mr. Makely made a motion to approve the May 22, 2012 BOS minutes as presented with the "conflict memorandum" to be attached. Mr. Amentas seconded. Vote: Unanimous.

June 12, 2012 cancelled BOS minutes – Mr. Makely made a motion to approve the June 12, BOS minutes as presented. Mr. Toth seconded. Vote: Unanimous. Buddy Rhoades asked about the June 12 workshop.

SOLICITOR REPORT:

Mr. Pompo informed the Board that the BAWA Fellowship settlement agreement has been concluded and a signature from Judge Nagel has been received.

Mr. Makely stated that someone has come forward and requested the use of the township park to film part of a TV show called "MADE" and asked Mr. Pompo if there are any special requirements that need to be completed before the filming starts. Mr. Pompo replied that it is up to the Board. Mr. Amentas stated that he will contact the proper person and have them provide the township with a "liability waiver" before filming.

LEGAL ISSUES:

Providence Hill release #1 –Mr. Amentas would like to talk about the swale behind 303-311 Providence Hill Road first and asked Mr. Della Penna if the swale can be built in accordance with the approved plan, specifically with respect to the grading discrepancies. Mr. Della Penna replied "I don't see why it couldn't be." Matt Midkiff of 309 Providence Hill Road stated that he has water that rushes through his yard and water in his basement. Mr. Midkiff also stated that he will have an engineer survey his property on July 5 and will present their findings to the Board. Mr. Amentas asked if it is fair to say that Mr. Midkiff should have rushing water through his back yard. Mr. Della Penna replied "yes." Mr. Amentas asked Mr. Miakiff if he is aware that there is a plan showing a swale in their back yard and what a swale is supposed to do. Kelly Midkiff replied "yes and the issue with the swale is when it gets to their yard it becomes very wide and gets closer to the house, with each rain storm." Mr. Amentas asked Mr. Della Penna if this is the erosion issue that he was talking about and if he knows the cause of the widening of the swale. Mr. Della Penna replied "I'm not sure they have erosion, and the expansion could be settlement, accumulated sediment; it also could be a number of things." Mr. Midkiff stated that he takes exception to that, because there is erosion and "Rouse's" previous efforts to get rid of it have failed and you can see where there attempts were made. Mr. Midkiff also stated that they are satisfied with "Rouse's" proposal to add dirt and sod. Mr. Porter asked Mr. Della Penna if dirt and sod is a satisfying fix to prevent the erosion. Mr. Della Penna replied that you would have to add soil and grade it properly, and create a fine channel for the water to flow to. Mr. Porter also asked if rocks are needed. Mr. Della Penna replied "rocks would not be appropriate because of the closeness to the house." Mr. Amentas asked Mr. Della Penna if he reviewed the remediation plan that was prepared by "Rouse." Mr. Della Penna replied that he received a verbal email description of their plan. Mr. Amentas then asked if the email incorporated all the affected lots. Mr. Della Penna replied that he met with a "Rouse" representative and a couple of homeowners individually to describe what were proposed for each lot. Mr. Porter asked Mr. Della Penna what is the resolution of the end home with water in their basement. Mr. Della Penna said that "Rouse" said they were negotiating with the owners. Mr. Makely asked if a time frame has been established. Mr. Steve Gallo, "Rouse," stated once they have the four property owners who have a stake in the swale, they can move forward with an approved plan for the Board, within two weeks. Mr. Gallo also stated that part of their request tonight is to reduce their security for the items that were completed and an extension for the letter of credit. Mr. Amentas asked Mr. Della Penna why the "fix" should be on a "lot by lot" basis. Mr. Della Penna replied "because there are five homeowners that are affected." Mr. Amentas also asked

Mr. Della Penna if his goal is to have everything constructed in accordance with the approved plan or constructed to each individual homeowners wishes, and how the township would participate in that dialogue. Mr. Della Penna replied "I can't answer that, because certain homeowners have certain plans for their property that would impact what is on the approved plan. Mr. Porter asked Mr. Gallo if he wants the homeowners to "sign off" on the plans. Mr. Gallo replied that they would before they make any changes. Mr. Gallo also stated that the stormwater management in the yards is to the approved plans, except some minor deficiencies in its operations. Mr. Porter stated that he is concerned with the changing of the grading at the houses leading up to houses getting water in their basements, and soil and grass will erode just the same. Mr. Gallo replied that their conclusion is that part of the problem is that the lawn was not established as well as it could have been, and adding sod in that area should resolve it. Mr. Amentas asked Mr. Gallo his opinion on why Mr. Richards is getting water in his basement. Mr. Gallo replied "it's a combination of grading and the downspout, those types of issues." Mr. Amentas asked if the swale was constructed properly, in that location, would it carry the water from that grade. Mr. Gallo stated that they are proposing a yard drain system to get the water, at the back corner, into the street. Mr. Porter asked Mr. Gallo if they approached any homeowners to "sign off" on the plan. Mr. Gallo replied that there are four involved."

Kevin Richardson of 315 Providence Hill Road stated that within forty-fives days of moving into his home he had water in his basement, towards his furnace, and when he checked his bilco doors both sides were not filled in with dirt. Mr. Richardson also stated that they now have to disclose that they had water in their basement if they sell their house. Mr. Amentas asked Mr. Gallo if it's appropriate to have drawings on a "lot to lot" basis. Mr. Gallo replied "specific lots are probably not, given what the changes are, and cannot show adding sod and repairing erosion on a plan but he can show piping down spouts and installing yard drains." Mr. Amentas asked Mr. Richardson if water accumulates in his backyard. Mr. Richardson replied that it pools a couple of feet out from the bilco doors. Mr. Richardson stated that if he has to bring in a water management expert, he will. Also he drove by the house once a week as it was being built and they saw the foundation concrete wall, a big void, and the shale wall, who's to say that water did not collect and rest there. Mr. Amentas asked if Mr. Gallo is strictly focusing on a grading issue. Mr. Gallo replied that they are working to route the water to the street. It is also impossible to guarantee that there is not a spring or groundwater influence that is causing the water. Mr. Gallo stated to the Board that they have completed the majority of the "punch list" and is asking the Board to own up to their end of the bargain and release the money. The Board agreed to not move on anything until this issue is resolved. Mr. Makely made a motion to approve the release of Providence Hill request #1 in the amount of \$33,350.00 leaving a face amount of \$14,850.00 and the approval to send the presented letter to Wells Fargo Bank releasing said money. Mr. Porter seconded. Mr. Porter asked Mr. Della Penna what are the other issues in the development. Mr. Della Penna replied \$2,000.00 for an erosion repair area in between two townhouses, \$6,400.00 for the swale issue, \$3,750.00 street tree replacement and \$400.00 for minor repairs. Mr. Gallo stated that the majority of the work has been completed since the request was made. Mr. Porter asked Mr. Della Penna how he came up with \$6,400.00. Mr. Della Penna replied "from "Rouse's contractor." Bob Graham spoke about holding the money until all the repairs are completed. Buddy Rhoades spoke about drainage, Baron Crest, and other issues. Mr. Porter asked Mr. Pompo how "a letter of credit" is rated as collateral. Mr. Pompo replied "high." Mr. Richardson asked the Board at what point do they hold escrow until there is resolution. Mr. Pompo replied that the proposal is to have a new expiration date of September 5, 2012. Bill Montgomery spoke about shale. Mr. Amentas voted aye. Mr. Makely, Mr. Toth, Mr. Pomorski, and Mr. Porter voted nay. Vote failed.

Mr. Pompo asked the Board, as well as the applicant, that since the vote failed the letter of credit has to be extended or the township calls the bond. Mr. Pompo also stated that he would write the letter to call the letter of credit on the basis of non-compliance. Mr. Gallo asked if the full amount can be released on September 5. Mr. Pompo replied unless the Board, between now and September 5, wants to entertain another release. Mr. Porter asked Mr. Gallo if he has the "OK from all the homeowners. Mr. Gallo replied that there is one more. Mr. Porter asked Mr. Gallo what is he looking for from Engineer Howell and Associates. Mr. Gallo replied that his concern is not that the Board holds \$50,000.00 for another sixty days, it's that he does not see an end to this discussion, based on how it has been going. Mr. Porter asked Mr. Richardson his opinion. Mr. Richardson replied that he is not asking for the builder to do anything extra but would like to get what he paid for. Mr. Amentas stated that it is not the Boards job to get him what he paid for. Mr. Amentas replied that he will represent to him, as a township, their obligation to insure that the public improvements are built in conformance of the approved plan. Mr. Makely asked Mr. Gallo if "Rouse" is going to grant the extension until September 5, 2012. Mr. Gallo replied that he recommends that the Board approve the extension and he will convey with Vince whether they will implement it or not. Mr. Pompo stated that he needs direction from the Board to call the letter of credit. Mr. Makely made a motion to approve the extension of the Letter of Credit for an additional sixty days to September 5, 2012. Mr. Porter seconded. Vote: Unanimous.

17 & 19 Newlinville Road survey and appraisal – Mr. Pompo stated that it was conveyed from the Redevelopment Authority of Chester County for use by the Township as open space, with a further restriction that any conveyance by the Township requires

the prior written approval of the Redevelopment Authority. The Board agreed to postpone further discussion until the July 10, 2012 workshop meeting.

Baron Crest dedication Resolution 2012-08 – Mr. Pompo stated that the purpose of this resolution is to accept the roads and send them to PennDot for the Liquid Fuels list, not to dispose of any escrow funds. Mr. Makely made a motion to approve Resolution 2012-08 for the acceptance of certain tract of ground consisting of the road bed of Baron Crest Way, the cul-de-sac, and the Right-of-Way of 1.2226 acres located along Baron Crest Way comprising a Township road, and shown on the certain as built plan dated 8/18/2008 and revised 11/2/2010. Mr. Toth seconded. Mr. Porter asked Mr. Della Penna if this resolution pertains to the stormwater issues. Mr. Della Penna replied that this resolution deals with the roads. Mr. Pompo stated that there is water carried off of the road that carries to the basin which makes the township accepting responsibility. Buddy Rhoades spoke about a covered basin in the development. The Board asked Mr. Della Penna to attend the July 10, 2012 workshop to further discuss the Baron Crest Development. Vote: Unanimous.

Hidden Valley Estates – Mr. Makely asked Mr. Della Penna for an update on Hidden Valley Estates. Mr. Della Penna stated that the contractor has most of the court ordered settlement plan work completed and has since left the job. Mr. Makely asked Mr. Della Penna if there is a time frame for the completion of the work. Mr. Della Penna replied that he believes that the time frame has expired. Mr. Makely stated that there are logs and other work that has to be completed and asked Mr. Pompo what the next step is. Mr. Pompo replied that the plan has to be followed. The Board directed Mr. Pompo to send Hidden Valley Estates a letter.

Mr. Makely asked Mr. Della Penna to give the Board a report on the Fieldstone Development. Mr. Della Penna stated that there are a couple of inlets that are not covered by grates, but he put a piece of wood on top of one of them. Mr. Makely asked Mr. Della Penna if he was aware that the basin was not installed. Mr. Della Penna replied that Deluca Homes went into default and the contractor walked away from the job, but Longview Investments "Longview" is now in a pending sale for the development. Mr. Pompo stated that they will be subject to all of the land development agreement and asked Mr. Della Penna if he knows if "Longveiw" is buying the development on the bond staying in place. Mr. Della Penna replied, "yes, as is." Mr. Amentas asked if the legal fees have been reimbursed to the township. Mrs. Miller replied "no." Dennis Kozlowski spoke about the flooding on his property. Buddy Rhoades made comments about the inlets. Ed Porter asked Mr. Pompo if the township did anything misleading to "Longview" regarding the previous bond discussions. Mr. Pompo replied "no, there was no motion made to call the bond."

Mr. Porter asked Mr. Della Penna his impression on lot #5 in the Northwood's Development. Mr. Della Penna replied "it is a tight but buildable lot."

Mr. Makely moved Citizens by Request up on the agenda. Mr. Rick Rausmussen asked the Board to take care of the property and building formally known as "Marty's Pub" and find out why this property keeps being pulled out of an upset sale. The Board directed Mr. Pompo to write a letter to the County.

CRM Energy Group, LLC – Mr. Makely made a motion to authorize the Board of Supervisor's to enter into an agreement with CRM Energy Group LLC in the form provided, to the Board, called the Utility Auditing and Analysis Agreement. Mr. Pomorski seconded. Mr. Porter stated that is he ok if Peco is notified immediately about the police station being billed as "residential." Mr. Amentas abstained. Mr. Makely, Mr. Toth, Mr. Porter, and Mr. Pomorski voted aye. Vote passed.

CRM Energy Group, LLC – Mr. Makely made a motion to authorize the Board of Supervisors to enter into an agreement with CRM Energy Group LLC in the form provided to the Board called the Deregulation Agreement. Mr. Toth seconded. Vote: Unanimous.

Why Brook Crossing open space is being cut– Mr. Pompo presented the Board with Resolution 2007-03 dedicating the parcels of land which includes the open space, which is now part of the township park, dam, all the area north of the development area, and areas along the development perimeter where there is an existing trail.

Right to farm ordinance – The Board tabled further discussion until the July 10, 2012 BOS workshop.

Peddler permit revisions – The Board tabled further discussion until the July 10, 2012 BOS workshop.

Renegotiating a new cell tower lease – Mr. Pompo stated that the Township is locked into their agreement with the tower lease.

Tower Co. formal objection to the township annual Telecommunications Registration Fee – Mrs. Miller informed the Board that the township tower renters are objecting to paying a \$2,500.00 Telecommunications Registration Fee. Mr. Toth asked Mrs. Miller

when the fee was implemented. Mrs. Miller replied "2011." Mrs. Miller also stated that the fee was to be directed to the fire companies but it was never said how it would be distributed. The Board directed Mr. Pompo to write the tower companies a letter. Mr. Pompo stated that he will state, in the letter, that the fee is for routine maintenance, annual inspection, annual report each January, insurance certificate, and a certification signed by an authorized representative of the applicant stating that all governmental regulations are complied with.

Harkins Farm high grass violation – Mr. Porter stated that based on a resident complaint that "Harkins Farm's" grass is not being maintained, he determined that the property should be cut every twelve inches, instead of on or before June 15 and August 15 of each year as it would be for a property being utilized for agricultural purposes. The Board directed Mrs. Miller to have the road department mow it or see if the person who does the township park space along Strasburg Road.

Proposed COG agreement and ordinance – Mr. Pomorski presented that he has been attending meetings to form the Western Chester County Council of Governments ("WCCCOG") where Municipalities share services and or equipment. Mr. Makely made a motion to advertise an ordinance pursuant to the terms of the Intergovernmental Cooperation Act, 53 Pa. C.S.A. Section 2301, authorizing East Fallowfield Township to enter into an Intergovernmental Cooperation Agreement with other municipalities located in Western Chester County to form the Western Chester County Council of Governments. Mr. Pomorski seconded. John Davis spoke about the fire consolidation. Siti Crook was concerned about unknown fees. Mr. Porter stated that he has concerns with the agreement on different levels. Buddy Rhoades spoke on townships sharing equipment and services. Jan Bowers recommended joining the "WCCCOG." Jan Bowers recommended joining the "WCCCOG." Mr. Porter questioned who is operating the group. Mr. Amentas wanted to be sure that the council cannot bind the township to anything. Mr. Amentas would like Mr. Pomorski to bring the word "assessed" in the thirty day terminate section to the "WCCCOG's" attention and present the Board with their budget before it is adopted. Mr. Porter voted nae. Mr. Makely, Mr. Toth, Mr. Pomorski, and Mr. Amentas voted aye. Vote passed.

County proposed "911" fee – Mr. Amentas asked Mr. Pompo to give the Board an update on the proposed "911" fee. Mr. Pompo stated that all municipalities received a draft letter regarding a county vote on the "911" fee, which generated a lot of activity so the County delayed a vote until July. The fee is to underwrite the cost involving "911" services, debt for redoing the radio system throughout the County, the training facility in South Coatesville, and a couple of other items. Also, the County Commissions have admitted that this fee is "voluntary."

PARK AND RECREATION:

June 2012 report – The June 2012 Park and Recreation report was presented by Brian Carling.

Revised park ordinance and use permit – Mr. Amentas made a motion to advertise an ordinance pursuant to Section 2203 of the Second Class Township amending and restating Chapter 16, part 1 of the code of ordinances, park rules and regulations revision date 6/12/12. Mr. Toth seconded. Buddy Rhoades asked if copies will be available for review. Mr. Amentas replied yes, as well as available on the website. Mr. Porter voted nae because he is not in favor of the permit process. Mr. Toth, Mr. Makely, Mr. Pomorski, and Mr. Amentas voted aye. Vote passed.

Denise Miller requesting Board approval to move forward with "Movie night" in the park for approximate \$2,500.00 to \$3,000.00 – Mrs. Miller presented the Board with a desire to have a "movie night" in the park. Jan Bowers asked if Mrs. Miller could attend the July 17 Park and Recreation workshop. The Board approved and Mrs. Miller agreed.

TREASURER'S REPORT:

May 31, 2012 Treasurer's report – Mr. Makely excused himself from the meeting. Mr. Amentas made a motion to approve the 2012 Treasurer's report as presented. Mr. Toth seconded. Buddy Rhoades asked how much has Jill Bukata been paid for the audit and whether it was completed. Mrs. Moore replied that she is working on the information that was received from Mrs. Bukata. Also, no bill has been received. Siti Crook asked if Mr. Pompo invoiced "Longview" yet. Mr. Amentas replied "yes and the township paid him and is now seeking reimbursement. Vote: Unanimous.

May 2012 payment authorizations – Mr. Toth made a motion to approve the April 2012 payment authorizations as presented. Mr. Pomorski seconded. Mr. Amentas abstained. Mr. Makely, Mr. Toth, Mr. Pomorski, and Mr. Porter voted yea. Vote passed.

POLICE DEPARTMENT:

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

John Fetscher resignation – Mr. Amentas made a motion to accept the resignation from part time police officer John Fetscher, effective June 6, 2012. Mr. Toth seconded. Vote: Unanimous.

Mr. Pomorski read a letter from a resident regarding Police Officer Justin Fonock.

HISTORICAL COMMISSION:

Fairview Road cell tower report – No presentation – See report.

PLANNING COMMISSION:

No reports were submitted.

PUBLIC WORKS DEPARTMENT:

May 2012 road and vehicle report – No presentation – See report.

May 2012 recycling report – No presentation – See report

Resolution 2012-09 and Agility Agreement – Mr. Toth presented the Board with a PennDot Agility Agreement where the Township and PennDot would swap services. The Board agreed to table further discussion until the July 10, 2012 workshop.

Question from June meeting – Alamo mower "aka" bat wing mower" was bought for \$13,200.00 on April 3, 2003 from the Park and Recreation Fund.

UNFINISHED BUSINESS:

Dave Fiorenza's (Local Government Management Services, LLC) report – Buddy Rhoades stated that Mr. Fiorenza's report did not address the road department performing trash related work, "mowing" hours, and made other comments. Siti Crook asked if Mr. Fiorenza's contract is for public view and if he did what the contract stated that he would do. Mr. Amentas replied that it is public. Mr. Amentas also stated that there was an executive session regarding Mr. Fiorenza's contract.

NEW BUSINESS:

There were publications for "What is a watershed" and "Green guide for property management" in the back of the meeting room.

Mr. Amentas announced that the township is in receipt of an Agricultural Security Area Application from Paul McDevitt and Heather Davis of 1375 South Bailey Road, parcel #47-6-9 for 10.69 acres.

Mr. Toth informed that Board that "Keep Pennsylvania Beautiful" did a survey on Municipalities and named East Fallowfield as tied for first place for the worst in illegal dumping. The two major sites are on Timacula Road and Mortonville Road. Mr. Toth also stated that he will follow up on this.

PUBLIC PARTICIPATION: Buddy Rhoades asked the Board if any anyone went to the meeting regarding the covered bridge. Mrs. Miller replied that there was a meeting in the township office. Mr. Rhoades also spoke about the speed humps put in on that road and the "dumping in the township.

Dennis Crook asked if the mulch chippings at the compost site are available to the public. Mr. Toth replied "yes."

ADJOURNMENT: Mr. Amentas made a motion to adjourn the Board of Supervisors meeting at 10:30 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. Amentas, in my capacity as a Vice Chairman of
(name) (public position held)

EAST FALLOWFIELD TOWNSHIP am abstaining from agenda item 7b.
(number,

payment authorizations for the regular/special meeting of
(letter or other identifier of agenda item)


6/26/2012 pertaining to May 2012 payment authorizations due to a conflict
(date) (description of agenda item) ions

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

Solicitor contributes to Republican Committee of
Chester County, which contributes to my State Senate
Company.

(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: 6/26/12


(signature)