

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
August 28, 2012
Approved minutes
6:30 PM

Call to order, silent meditation, and pledge of allegiance.

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

Mr. Amentas opened and read the following engineer bids received by the township office. Della Penna Engineering, Inc., Boucher & James, Inc., D.L. Howell & Associates, Inc., NePo Associates, Inc., URS Corporation, LTL Consultants, LTD, ARRO Engineering & Environmental Consultants, McCormick Taylor, Pennoni Associates, Carroll Engineering Corporation, Wilson Consulting Group, PC. Mr. Amentas stated that these bids will be reviewed, in detail, by the Board and reviewed at the September 11, 2012 BOS workshop. Buddy Rhoades asked about the rates. Mr. Amentas replied that they will be read at a future meeting.

APPROVAL OF MINUTES:

July 24, 2012 workshop minutes – Mr. Amentas made a motion to approve the July 24, 2012 BOS minutes as presented. Mr. Toth seconded. Vote: Unanimous.

August 1, 2012 special meeting minutes – Mr. Amentas made a motion to approve the August 1, 2012 special meeting minutes as presented. Mr. Toth seconded. Vote: Unanimous.

Public Hearing for the Intergovernmental Cooperation Agreement ("COG") – Mr. Amentas asked for public comment. Buddy Rhoades asked the Board what townships are involved in the agreement. Mr. Pomorski replied that he is not sure what townships signed the agreement but Caln, West Bradford, Sadsbury, Valley, Newlin, and West Brandywine Townships were at the meetings, as well as the Boroughs of South Coatesville, Modena, and Parkesburg. Siti Crook asked Mr. Pomorski for a budget and stated that she highly disagrees with the agreement. John Davis stated that joining the "COG" sounds like a bad idea, and is concerned that anything the township does will have to be checked by the "COG" first. Mr. Amentas stated that he disagrees that the township has to check with the "COG" before the township does anything. There is also nothing in the agreement that gives any member or the "COG" as a whole the authority to compel the township to do anything. Mr. Amentas also stated that he asked Mr. Pomorski to present the Board with the "COG" budget before it is adopted. Siti Crook stated that a budget number should be established because each year the township will have to decide if they will still be involved. Ed Porter replied that it is hard to put a number on resources or equipment use. Mrs. Crook stated that she is just talking about the budget and asked for clarification on Mr. Porter's statement. Mr. Porter replied that the Modena police contract was an "Intergovernmental Agreement" on a smaller scale than the "COG", and East Fallowfield Township withdrew because they lost in the agreement. Mr. Porter stated that both he and Mr. Pomorski attended the "Newly Elected Governing Bodies Government 101" meeting ran by three attorney's and one ex-township manager. Mr. Porter also stated that he would have more respect for this organization if the three attorneys and the ex-manager came before the Board and the township residents, and explained their organization. Therefore, he would like to put a hold on this agreement. Mr. Pomorski stated that the Chamber of Commerce organized the meeting, not the "COG." Sharon Scott stated that the Borough of Modena signed the "COG" agreement and stated that the "COG" is "truly a conspiracy of aggressive pillagers and lawyers." Mr. Amentas told Mrs. Scott that she is not allowed to slander anyone at the BOS meeting. Alfred Wright expressed his concern that this is not anymore open ended going into it, and asked them to see what the goal is, and place an initial budget in place. After all public comment Mr. Amentas made a motion to adopt an Ordinance of the Township of East Fallowfield 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. Buddy Rhoades made comments about the motion. Mr. Amentas, Mr. Toth, Mr. Pomorski voted yea. Mr. Porter voted nae. Vote passed.

Providence Hill Development water issue – Mr. Della Penna informed the Board that he spoke or met with three of the affected home owners, Kevin Richardson, Kelly Midkiff, and Karen Cassidy. Mr. Della Penna read his August 28, 2012 Providence Hill repair update letter. Mr. Amentas asked Mr. Richardson, Mrs. Midkiff, and Ms. Cassidy if they would like to make a brief comment about their concerns. Ms. Cassidy stated that she is still concerned with the grading in her back yard as well as other yards. Mr. Richardson asked the Board if the township received any compensation on the house permits. Mr. Amentas replied

"yes." Mr. Porter replied that the township also receives Park and Recreations "fee in lieu of" funds. Mr. Richardson also asked the Board if the buyer is able to change the position of the house as long as it fits in the setback line. Mr. Amentas replied that plans are submitted with fictitious homes to be placed within the building footprint. Mr. Porter asked Mr. Della Penna how he goes back and checks the stormwater management plan when the plans are changed. Mr. Della Penna replied "generally when the plans are submitted they have stormwater calculations, grading, and drainage areas that are meant to convey water to certain stormwater management facilities, and also on a smaller scale they have drainage proposed around the houses." "When they make modifications I look to make sure the water is still going to get where it is supposed to get, and it doesn't cause any ponding and grading issues." Mr. Amentas asked Mr. Della Penna if he agrees with Mr. Richardson's argument that the way his lot is, it generally does not conform with the plans. Mr. Della Penna replied "it depends on how you define generally." The plans show a slope next to Mr. Richardson's house, which was constructed a lot steeper than the plans, but it slopes the direction that it's supposed to according to the approved plans. Mr. Della Penna also stated that he believes that the homeowners received a building permit that he did not see. Mr. Amentas asked Mr. Della Penna "how is the proposed system supposed to perform and accomplish, with respect to Mr. Richardson's lot, regarding the water coming off of the steep hill along side of his house"? Mr. Della Penna replied that the proposed plan is to grade any low areas and direct all the runoff either out to the street or to the yard drains, so all the water is collected and conveyed, via yard drains and pipe drains, out to the stormwater system. They are also proposing to collect the house down spouts and hard pipe them into the system as well. Mr. Amentas asked the mechanism by which the water is to be conveyed to the drain. Mr. Della Penna replied "grading changes specified in the scope of work presented by the developer." Mr. Amentas asked Mr. Richardson if he reviewed the scope of work as it pertains to grading changes. Mr. Richardson replied that he doesn't see where it talks about grading. Mr. Della Penna replied that it's not specific in the scope of work, that is why he put it in his report. Mr. Amentas asked if Mr. Richardson will be give a specific design indicating how the grading is precisely going to be changed. Mr. Della Penna replied that the developer has to go to Mr. Richardson and the other property owners and have them sign off. Steve Gallo, Rouse Chamberlin ("Rouse"), stated that the analysis that their engineer provided to the township engineer takes into account the hill side.

Mr. Porter asked Mr. Pompo for his advice concerning the escrow request for next month. Mr. Gallo stated that the financial security will expire the beginning of September so they provided a contractors estimate to complete this work, plus the comments of the township engineer, plus 15% as security with the township solicitor until this is completed. Mr. Pompo stated "when that request was made by letter he turned it back to the township engineer to ask his opinion on whether the amount is sufficient." Mr. Amentas asked Mr. Della Penna what the next step is for the township. Mr. Della Penna replied that the township has to make sure that the work is completed properly, and make sure the resident's concerns are addressed. Mr. Pompo asked if "Rouse" is agreeable to the additional comments made in Mr. Della Penna's August 28, 2012 letter. Mr. Gallo replied that the way certain things are worded, he is not sure they are conditions. He is agreeable to all the conditions except #5 where Mr. Richardson requested the damage to his bilco door, trim, basement and driveway depression be fixed. Mr. Amentas stated that the Board does not have the authority to ask "Rouse" to completely re grade the lots, so the best the township can do is to make sure that the water coming off the hill is conveyed away from their homes. The Board will also hold onto the financial security that Mr. Della Penna believes is appropriate, to insure that the repairs that are required to accomplish the result of moving the water away from the house are completed. Mr. Richardson stated "if the developer submitted the plan to the township and the township says "ok" that's good, you go ahead and build" and you come to find out that your third party engineer that is totally different, then what happens?" Mr. Pompo replied that there is nothing much a township can do when you have those situations in place. Mr. Porter asked Mr. Gallo how many residents agreed to the proposed plan. Mr. Gallo replied that four out of six agreed. Ms. Cassidy stated that she agreed to the drainage system and wants to make clear that there is still grading issues on her property. Mr. Della Penna explained that calculations show that the drain proposed two houses up from Mr. Richardson will eliminate half the water on his property.

Steve Gallo representing Rouse Chamberlin cash escrow – Mr. Amentas made a motion to accept Rouse Chamberlin's proposal to submit to the township a cash escrow in the amount of \$13,600.00, and release the current letter of credit concurrent with the posting of cash. Mr. Pomorski seconded. Sharon Scott commented on the motion. Buddy Rhoades commented on the motion. Mr. Amentas stated that the Board relies on the township engineer for direction. Mr. Pompo informed the Board that this is a letter of credit to satisfy an eighteen month maintenance obligation. Mr. Pompo advised the Board to take action on the pending letter of credit, and given the numbers, he is not sure if he would advise the Board to call the entire letter of credit. Mr. Porter stated that he has concerns that Mr. Gallo does not have full agreement at this time. Mr. Gallo stated that he is willing to keep working on this but needs to post the cost to fix it. Mr. Pompo stated that he is not sure he would advise the full release. Mr. Amentas and Mr. Toth voted yea. Mr. Pomorski and Mr. Porter voted nae. Vote failed.

Mr. Pompo asked Mr. Gallo if he would extend the letter of credit until the September 25 board meeting. Mr. Gallo replied that he is not comfortable with that. Mr. Porter asked Mr. Gallo why he does not want to grant an extension. Mr. Gallo replied because as the Solicitor stated there is an eighteen month obligation, and that is what they are trying to solve. Mr. Amentas

asked the Board members if they want to make a motion to call the letter of credit. No motion made. Merrick Berg, Providence Hill HOA president, stated that "Rouse" should give an extension. Mr. Midkiff stated that he also believes that "Rouse" should give an extension. Mr. Amentas asked Mr. Gallo why he doesn't want to give a one month extension. Mr. Gallo replied "because it's not a fair deal; they completed everything on the list". Mr. Gallo stated that he would like to take a break and think things through. Mr. Gallo came back and suggested a 50% contingency instead of 15% for a total of \$17,670 total cash escrow posted by Rouse Chamberlin with the Solicitor. They would also continue to solve the problems with all the residents, and hopefully come back to the Board with six out of six approvals. Mr. Amentas made a motion to accept Rouse Chamberlin's proposal to submit to the township a cash escrow in the amount of \$17,670.00, and release the current letter of credit concurrent with the posting of the cash. Mr. Pomorski seconded. Vote: Unanimous.

Sheila Fleming and Tony Robalik with the Brandywine Conservancy – Mrs. Fleming presented "The Brandywine Creek Greenway" ("Greenway") project that is underway at no cost to the township. The "Greenway" is envisioned as a 30 mile long green corridor of varying width, stretching from the Delaware state line at Chadds Ford to the state-designated Pennsylvania Highlands Mega-Greenway in the north. Mrs. Fleming asked the Board for a township liaison for the "Greenway." Mr. Amentas replied that he will contact the Planning Commission regarding appointing a liaison to the "Greenway" project.

CITIZENS BY REQUEST:

Deborah Rush – Not present.

SOLICITOR REPORT:

Right to know answer from last month's question – There is an exception for a record containing the name of a confidential source in requesting the name of a complainant.

LEGAL ISSUES:

Old Wilmington Road sealed bid – Mr. Amentas made a motion to accept Chris Della Penna's recommendation to award Dan Malloy Paving, Inc. the Old Wilmington Road bid in the amount of \$47,535.00 for the repaving of approximately 0.4 miles of Old Wilmington Road. Mr. Toth seconded. Mr. Colyer made a comment on the motion. Vote: Unanimous.

Mortonville Road sealed bid – Mr. Amentas made a motion to accept Chris Della Penna's recommendation to award Dan Malloy Paving, Inc. the Mortonville Road bid in the amount of \$99,525.00 for the repaving of approximately 0.9 miles of Mortonville Road. Sharon Scott made a comment on the motion. Vote: Unanimous.

Traffic Planning and Design Mount Carmel Road work estimate – Mr. Amentas made a motion to authorize Mr. Gathercole to pursue repair option #3 "Gabion Basket slope or wall" on the August 27, 2012 Traffic Planning and Design, Inc. report, preferably doing the work himself if the work schedule availability permits. If not, contact a qualified contractor to do the work for the maximum cost of \$15,000.00 to be paid out of the Liquid Fuel Fund. Mr. Toth seconded. Sharon Scott commented on the motion. Buddy Rhoades commented on the motion. Mr. Porter asked Mr. Della Penna his opinion on the developer time frame for the work to be completed on Mount Carmel Road. Mr. Della Penna replied that Mr. Gathercole said that he would like to pave it next year. Vote: Unanimous.

TowerCo. tower located at 2264 Strasburg Road – Mike Grab, attorney from Nikolaus & Hohenadel, LLP is disputing the increase of the tower registration fee from \$25.00 to \$2,500.00 per year, and requested that the Board revise their fee to a more reasonable amount. The Board stated that they would have the township solicitor and treasurer justify the fee and get back to him.

Burn Permit ordinance advertisement – Mr. Amentas made a motion to advertise an ordinance amending section 7-301 and 7-302 of the EFT code of ordinances establishing minimum regulations applicable to open burning in East Fallowfield Township, solicitor draft 8/7/12 with section 3 & 4 deleted. Mr. Amentas withdrew his motion. Mr. Amentas restated his motion to advertise an ordinance amending section 7-301 & 7-302 of the East Fallowfield Township code of ordinances to establish minimum regulations applicable to open burning in East Fallowfield Township solicitor draft of 8/7/12, deleting section 3 and 4. Exhibit A will be the rewritten burning permit and regulations with a Tony Sirna draft of 8/7/12. Mr. Toth seconded. Jennifer Kerstetter commented on the motion. Sharon Scott commented on the motion. Buddy Rhoades commented on the motion. Mr. Amentas, Mr. Toth, and Mr. Pomorski voted yea. Mr. Porter voted nae. Vote passed.

Mr. Toth read a complementary letter regarding Emergency Coordinator Tony Sirna.

Mr. Amentas called for a five minute recess from 9:15 to 9:20 PM.

Brinton Station Resolution 2012-11 – Mr. Amentas made a motion to accept Resolution 2012-11 accepting certain tract of ground consisting of the roadbeds of John Stevens Drive, Brinton Drive, Trestle Lane, Junction Lane and Pullman Circle, comprising Township roadbeds and shown on the legal descriptions prepared by Pickering Courts and Summerson, Inc. with dates of July 8, 2003 and July 9, 2003. Mr. Pomorski seconded. Sharon Scott commented on the motion. Buddy Rhoades commented on the motion. Mr. Porter asked if the stormwater drains are accepted at the same time. Mr. Pompo replied “not necessarily, usually the portions of the stormwater system that are actually within the roadway bed itself would be included in the dedication but not necessarily the pipes, swales and other drainage ways that lead to or from those specific facilities.” Mr. Pompo also stated that generally they would become the responsibility of the Home Owners Association. Mr. Porter asked if the township is responsible for the roads. Mr. Della Penna replied it would be the township's responsibility if they are in the road itself. Buddy Rhoades commented on the motion. Vote: Unanimous.

PARK AND RECREATION:

July 2012 report – Brian Carling presented the July 2012 Park and Recreation Commission report.

Park and Recreation ordinance adoption – Mr. Amentas made a motion to approve Ordinance 2012-01 amending and restating Chapter 16, Part 1 of the code of ordinances, Park rules and regulations. Mr. Pomorski seconded. Mr. Amentas, Mr. Pomorski and Mr. Toth voted yea. Mr. Porter voted nae on the permit part. Vote passed.

Park and Recreation permit fees – Mr. Amentas made a motion to approve Resolution 2012-10 establishing filing fees, permit fees, license fees and any other fees by way of multiple ordinances and resolutions. Sharon Scott commented on the motion. Mr. Toth seconded. Mr. Amentas, Mr. Pomorski, and Mr. Toth voted yea. Mr. Porter voted nae. Vote passed.

Mr. Brian Carling asked the Board's permission to ask Kurowski & Wilson Engineers, LLC to attend their September 18, 2012 workshop meeting.

October 13, 2012 "Community Day" – Brian Carling stated that he is 100% behind Mrs. Miller in organizing the “Community Day Event.” Mrs. Miller asked for volunteers to direct parking cars. Mr. Toth made a motion authorizing the October 13, 2012 park day, and the spending of up to \$1,790.00 from the Park and Recreation Fund and the Friends of the Park Fund, as needed. Mr. Porter seconded. Vote: Unanimous.

TREASURER'S REPORT:

July 31, 2012 treasurer's report – Mrs. Moore presented the July 31, 2012 treasurer's report. Mr. Amentas made a motion to approve the July 31, 2012 Treasurer's report as presented. Mr. Toth seconded. Mr. Porter asked Mrs. Moore to provide the detailed treasurer's report in the Board meeting packets. Sharon Scott commented on the motion. Buddy Rhoades commented on the motion. Vote: Unanimous.

July 2012 payment authorizations – Mr. Toth made a motion to approve the July 2012 payment authorization as presented. Mr. Pomorski seconded. Sharon Scott commented on the motion. Mr. Amentas abstained. Mr. Toth, Mr. Pomorski, and Mr. Porter voted yea.

POLICE DEPARTMENT:

July 2012 police report – No presentation – See report

Buddy Rhoades asked about the police contract negotiations. Mr. Pomorski stated that there has been a meeting which he and Mr. Toth attended. Mr. Amentas stated that questions under the police report are for when Chief Porter is in attendance. Sharon Scott commented on the motion.

HISTORICAL COMMISSION:

No reports submitted.

PLANNING COMMISSION:

No reports submitted.

PUBLIC WORKS DEPARTMENT:

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

July recycling report – No presentation – sees report.

UNFINISHED BUSINESS:

NEW BUSINESS:

No new business

PUBLIC PARTICIPATION:

Sharon Scott commented about the advertising of the "precise financial statements," Mr. Porter asked Mrs. Miller when the last one was published. Mrs. Miller replied that if she remembers correctly it was 2009 and 2010. Mrs. Miller also stated that she spoke to someone regarding the advertisement and what she can do to get the statement advertised. This person said it never gets in on time. Mr. Porter asked Mrs. Miller "who is this person." Mrs. Miller replied "Dave Fiorenza." Mrs. Miller also stated that she cannot advertise it until the auditor gives it to her. Mrs. Scott also asked Mr. Makely's meeting attendance, and the county bridge. Mr. Porter stated that the proper thing to do is to resign if Mr. Makely is not planning on attending meetings for awhile. Mr. Amentas stated that Mr. Makely had serious back surgery.

Buddy Rhoades commented on the Mortonville and Covered Bridge meeting and the cell tower "registration fee."

Barbara Henry stated that there should be more consideration for the residents and supervisors during the meetings as far as "side bar" conversations from residents, which interrupt the meetings.

Dennis Crook asked the status of the Fieldstone Development "no silt fence" issue, and the calling of their bond. Mr. Amentas replied that he will follow up with Mr. Pompo on Wednesday.

Ed Porter asked the township's stance with the Home Owners Association taking care of Manchester Farm's basins.

Buddy Rhoades commented on the catch basin on South Caln Road, and made comments regarding Barbara Henry's comment.

ADJOURNMENT: Mr. Amentas made a motion to adjourn the Board of Supervisors meeting at 10:15 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) Amentas (public position held)

EAST FALLOWFIELD TOWNSHIP am abstaining from agenda item 11b
(number,

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

8/28/12 pertaining to payment authorizations, due to a conflict
(date) (description of agenda item)

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: 8/28/12

Ch Amentas
(signature)