

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
October 23, 2012
Approved minutes
6:40 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; Rosemary Moore, Township Treasurer; Vince Pompo, Township Solicitor.

APPROVAL OF MINUTES:

August 28, 2012 BOS minutes – Mr. Amentas made a motion to approve the August 28, 2012 BOS minutes as presented. Mr. Porter seconded. Mr. Makely abstained because he did not attend the meeting. Vote passed.

September 25, 2012 BOS minutes – Mr. Makely made a motion to approve the September 25, 2012 minutes as presented. Mr. Pomorski seconded. Mr. Makely abstained because he did not attend the meeting. Vote passed.

October 9, 2012 BOS workshop minutes – Mr. Amentas made a motion to approve the October 9, 2012 BOS workshop minutes as presented. Mr. Makely abstained because he did not attend the meeting. Vote passed.

SOLICITOR REPORT:

Mr. Pompo advised the Board that he received a phone call from Don Isabella, York Waste/Republic, stating that they would like to service the township out of the Brandywine Division in Penn Township. There will have to be a change in the contract so Don was asked to send a letter making his request. The cardboard issue will also be addressed with the new division.

Mr. Amentas asked Mr. Pompo if the budget deficits can be taken out of the Capital Projects Fund. Mr. Pompo replied that if these funds are not committed to another expenditure or program they can be transferred to the General Fund, and show that in order to offset what otherwise would be an operating deficit. Most townships put this on the budget. Mrs. Moore asked if she should create an account specifically to move money from the Capital Fund account. Mr. Amentas replied you just need to show on the budget that the funds were transferred.

Mr. Makely asked Mr. Pompo to explain the procedure to institute a property tax. Mr. Pompo replied that the township should re-introduce a tax since it has been at zero mills for so long. To levy a tax, assuming it was a zero tax in place, you would have to put it in the proposed budget, and then publish it for thirty days. Mr. Makely asked Mr. Pompo to verify his information and send the Board an email. Mr. Pompo replied "ok."

LEGAL ISSUES:

Township Manager – Mr. Amentas stated that he would like the budget more advanced before he votes on a township manager. Mr. Amentas asked Dave Fiorenza, Local Government Management Services, what would be his trigger in looking for a viable manager candidate. Mr. Fiorenza replied that he would look for candidates with municipal work experience and look at municipal organizations. Mr. Fiorenza also presented an option to continue his services as part time. Mr. Makely asked Mr. Fiorenza if his company has a consultant service. Mr. Fiorenza replied "yes, and he could provide that on a part time basis where he would not need vacation or sick days. Mr. Amentas asked if his title would be an Interim Manager. Mr. Fiorenza replied "yes." Mr. Porter asked Mr. Fiorenza if he is open to salary versus hourly pay. Mr. Fiorenza replied that the Board would have to talk with his boss, Dan Olpere, regarding this. The Board directed Mrs. Miller to add further discussion to the November 13, 2012 workshop meeting. Mr. Porter asked if Mr. Fiorenza would meet with the Board once they develop their plan to move forward. Mr. Fiorenza replied "yes."

Manchester Farms – Eric Schrock and Ken Dewey, Dewey Homes ("Dewey"), informed the Board that they completed Phase I and one lot is left in Phase II. Mr. Schrock would like the Board to reconsider their payment request from their contingency of \$31,110.00. There is also a balance of \$144,000.00 in the contingency fund and \$148,000.00 worth of work remaining in their escrow account. There is surveying work, landscaping, basin conversion, and some other minor items remaining. Mr. Amentas asked Mr. Schrock if any of their uncompleted work incorporates the Home Owners Association's concerns. Mr. Schrock replied that there are a couple of outstanding issues that they will fit in. Mr. Porter asked Mr. Schrock and Mr. Dewey if they are aware

of the latest Department of Environmental Protection letter. Mr. Scrock replied that it was about the bio logs and basins, and they are in the figures. Mr. Porter also stated that he is concerned if there will be enough money to do the basins. Mr. Scrock replied that they "bid out" Mr. Della Penna's punch list. Mr. Porter also asked Mr. Scrock if the South Caln Road and West Chester Road intersection paving is in Phase II. Mr. Scrock replied "no." Mr. Dewey stated "Dewey" is fully funded for that piece of the repair, or what the township requested them to do is in escrow. Mr. Porter asked Mr. Pompo if he knows the amount. Mr. Amentas replied "approximately \$300,000.00". Mr. Pompo replied that he believes that is correct. Mr. Pompo also informed the Board that "Dewey" has the obligation to do the project. Mr. Scrock and Mr. Dewey both replied "no, wrong builder, it's Ted Moser." Mr. Pompo replied that Mr. Moser has the obligation to do the flashing light before the last building permit. Mr. Amentas stated unless there was a change he recalls pretty clearly that the contract references "Dewey" doing the work when there are enough funds available. The issue was how to define when the threshold was reached of having enough funds available to do the work. Mr. Amentas also stated that the township needs to get out of the contract entirely, and put the work out to bid.

Mr. Makely stated to Mr. Schrock that it seems like he is trying to convince the Board that his definition of contingency is different than theirs. Mr. Porter asked Mr. Pompo if all developer's do their accounting this way. Mr. Pompo replied that the township is holding a security, which is to make sure that the work is performed to the end. It is also intended that as work is performed, there are releases in a timely fashion. Mr. Pompo also stated that he is not hearing any assurance that this project will be completed to the satisfaction of the township, without totally exhausting the contingency. As the project does not meet that milestone, meaning it doesn't come to the point where there is the completion of all the paving improvements, we don't really know what else may be out there for the contingency to cover. Mr. Schrock stated that Phase I is 99% complete and the township is holding \$98,000.00 for something that couldn't possibly need more than a few thousand dollars to finish. Mr. Pompo asked Mr. Schrock if Phase I has been dedicated. Mr. Schrock replied "it has not." Mr. Pompo replied "why not." Mr. Schrock replied "it could be." Mr. Pompo stated that if Phase I was done and was accepted by the township, he could be more comfortable in saying "we don't need contingency for Phase I." Mr. Schrock replied that they are ready to dedicate Phase I; all they need is a maintenance bond. Mr. Amentas asked Mr. Schrock why they haven't asked to close out Phase I if they are almost complete. Mr. Schrock replied that they were trying to do Phase I and II at the same time so they could set up the maintenance security in one lump sum. Mr. Amentas asked why they didn't request a portion of the \$98,000.00 for Phase I rather than something short of closing out the entire Phase I. Mr. Schrock replied that they already received a portion of the \$98,000.00. Mr. Pompo stated that the Board was concerned, at the September meeting, with depleting the contingency because you never know if it will be needed for Phase II. Mr. Schrock replied that he had a meeting with Mr. Della Penna to go over their numbers. Mr. Porter asked Mr. Schrock if they evaluated the cost factor of \$17,000.00 for the basins. Mr. Schrock replied "Berg Construction did." Basin five also needs to be completely redone. Mr. Amentas asked Mr. Schrock if they are fixing Megan and Kyle Branca's property. Mr. Schrock replied that they have a plan that needs to be approved by Mr. and Mrs. Branca and Mr. Della Penna. Mr. Makely made a motion to release payment request #26 for Manchester Farms, Phase II in the amount of \$31,110.00 from the established security leaving a balance of \$293,018.48. Mr. Amentas seconded. Mr. Amentas stated that he raised the question, at the October 23 meeting, about the contingency, because he is concerned that the contingency will be used and more work needed. Mr. Schrock replied "I guess anything is possible, but when they finish the roads and put them in a finished position and they have been inspected by the township engineer to be compliant with all requirements, it is highly unlikely that it will fail." Mr. Amentas replied "but the repairs at this point and time are necessitated by the fact that over time these roads have suffered damage". Mr. Scrock replied "it's the base coat, it's not the final." Mr. Dewey stated that the paving section needs the top coat to function. Mr. Amentas then asked "why is it characterized as a repair instead of a basic completion item." Mr. Dewey replied "in order to do the top coat they have to do the base repair." Mr. Scrock replied "there are some sections that need to come out and sections that haven't worked that need to be replaced." Mr. Amentas stated that he is not concerned with the security, per say, as it exists; he is concerned as to their attempts to characterize the contingency as being something that he believes it is not. Mr. Dewey replied that if you look at every line on the escrow sheet and take 10% of that, a lot of those items have been completed for six to seven years. There is no need for contingency for those line items. Mr. Amentas replied that they are still there and still being held, presumably because it's supposed to be until the Phase is completed." Mr. Scrock explained that if you took each line item, whether it is curb, sidewalk or paving, and put another line item underneath that says 10% more for paving, nobody does that because it's erroneous. So we put 10% at the bottom so that when you have construction overruns you usually assign them to a contingency. Mr. Schrock also stated that the Municipal Planning Code states that you are allowed to hold "retainage." Mr. Pompo replied based on the agreements it's the additional 10%, and not considered to be part of the amount of money that is released through normal escrow releases. Mr. Porter stated that he has concerns about the basins and the stormwater creating damage to residents of the township. Mr. Schrock replied that they are only aware of the issue downstream, several years ago, and he personally fixed it. If there are more complaints, they need to go down the proper channel. Mr. Amentas asked if this is "retainage" or "contingency" because there is a huge difference. Mr. Pompo stated that the standard agreement form is 110% of the estimated cost. The agreement states that the developer is entitled to 100%, and 10% extra to deal with the unknown. Mr.

Pompo also stated that he would be more comfortable giving the Board advice to deviate contingency to Phase I to Phase II if he knew that Phase I was over. Mr. Makely called for a vote. Mr. Amentas and Mr. Makely voted yea. Mr. Toth, Mr. Pomorski, and Mr. Porter voted nae. Vote failed. Mr. Porter stated that he voted nae because he needs more information from Chris Della Penna. Mr. Amentas stated that he voted yea because Chris Della Penna has approved that this expenditure is warranted at this time. Mr. Makely voted yea based on Mr. Della Penna's recommendation, and asked Mrs. Miller to request that Mr. Della Penna attend the next meeting when there is a payment release request. Mr. Makely would also like Mr. Della Penna to clear up the DEP issues and present the Board with the Home Owner Association's concerns with dedication. The Board directed Mrs. Miller to add the Manchester payment request release to the November 13, 2012 BOS workshop.

Mr. Makely asked Mr. Pompo to advise the Board on the Manchester Farms agreement.

Resolution 2012-12 – Mr. Makely made a motion to approve Resolution 2012-12 reducing the annual telecommunications registration fee from \$2,500.00 to \$600.00, retroactive to January 1, 2010. Mr. Toth second. Mr. Porter questioned the retroactive date. Mr. Pompo replied that the intention was to retroactively invoice back to January 2010. Buddy Rhoades commented on the motion. Vote: Unanimous.

PARK AND RECREATION:

October 2012 report – No presentation – See report

TREASURER'S REPORT:

September 30, 2012 treasurer's report – Mr. Makely made a motion to approve the September 30, 2012 treasurer's report as presented. Mr. Pomorski seconded. Glenn Colyer asked if the paving invoice for Wilmington Road has been paid yet. Mrs. Moore replied "no." Buddy Rhoades asked the number of township cell phones. Mr. Makely replied that the Supervisors do not have cell phones. Mr. Porter asked Mrs. Moore the status of the 2010 audit. Mrs. Moore replied that the audit is almost complete and Jill Bukata is presently writing the MD&A. Mr. Porter also stated that he is concerned with the financial reports because Mrs. Bukata is a CPA and the audits are not completed yet. Mr. Porter also questioned if Mrs. Bukata can work in two different townships at the same time. Mr. Pompo replied that he will check and see if there are any special rules pertaining to that. Vote: Unanimous.

September 2012 payment authorizations – Mr. Makely made a motion to approve the September 2012 payment authorizations as presented. Mr. Pomorski seconded. Mr. Amentas abstained. Vote passed.

MuniBilling billing system – Mr. Amentas and Mr. Porter suggested dissolving the quarterly trash statements. Mr. Makely recommended waiting until 2014 in order to give residents proper notice. The Board unanimously approved the sample invoice. Buddy Rhoades commented on West Caln Township's trash service. Mr. Porter asked Mrs. Moore the expiration of the township trash contract. Mrs. Moore replied that it expires on November 1, 2013.

POLICE DEPARTMENT:

September 2012 police report – No presentation – See report

HISTORICAL COMMISSION:

September 12, 2012 meeting – No report – See memorandum

PLANNING COMMISSION:

October 1, 2012 approved minutes

PUBLIC WORKS DEPARTMENT:

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

UNFINISHED BUSINESS:

Fee schedule – Mrs. Miller updated the Board on Mr. Amentas' previous question on the increases to the fee schedule made by Rob McLarnon, Building Inspector. Mr. McLarnon said his increases were based on his professional opinion, and our fee schedule has not increased in five years.

NEW BUSINESS:

November 6, 2012 Election Day – Mrs. Moore asked the Board if the township office could be closed due to high volume of voting. The Board agreed to keep the office open. Mrs. Miller informed the public that the township has a vacancy for the 2013 “vacancy board” and a vacancy for the “zoning hearing board” 2013-2015 term.

PUBLIC PARTICIPATION:

Harry Reath – Mr. Reath asked the Board if he could have a “Bark Relay” in the township park in May 2013. Mr. Makely directed Mr. Reath to present his plans to the Park and Recreation Commission (“P&RC”). Mrs. Miller stated that she spoke with Brian Carling of the “P&RC” and he would like the Board to make this decision. Mr. Porter asked Mr. Reath for more information. Mr. Reath explained there will be dog vendors and you could also come and walk your dog. Mr. Makely directed Mrs. Miller to add this to the November 13, 2012 workshop agenda.

ADJOURNMENT: Mr. Makely made a motion to adjourn the Board of Supervisors meeting at 8:28 PM. Mr. Toth seconded.
Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary