

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
February 26, 2013
Approved minutes
6:30 PM

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

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

Mr. Makely announced that there were executive sessions on January 18, and February 5, 19, and 26 regarding the police contract.

APPROVAL OF MINUTES:

December 11, 2012 special meeting/workshop minutes – Mr. Makely made a motion to approve the December 11, 2012 special meeting/workshop minutes as presented. Mr. Toth seconded. Mr. Porter was absent at this time. Vote: Unanimous.

December 18, 2012 BOS minutes – Mr. Makely made a motion to approve the December 18, 2012 BOS minutes as presented. Mr. Toth seconded. Mr. Porter was absent at this time. Vote: Unanimous.

January 15, 2013 special meeting/workshop minutes – Mr. Amentas made a motion to approve the January 15, 2013 special meeting/workshop minutes as presented. Mr. Toth seconded. Mr. Porter was absent at this time. Vote: Unanimous.

Mr. Porter arrived at 6:32 PM.

January 22, 2013 BOS minutes – Mr. Makely made a motion to approve the January 22, 2013 BOS minutes as presented. Mr. Toth seconded. Mr. Porter asked to add “up on the township website directing residents to Chester County Voters Services if they are interested” where in the minutes it refers to putting something on the website about two supervisors running for election. Mr. Makely amended his motion to approve the January 22, 2013 minutes as presented with the addition of the completed remarks by Mr. Porter. Mr. Toth seconded. Vote: Unanimous.

SOLICITOR REPORT:

Fieldstone Village Development, Longview Fieldstone LP (“Fieldstone/Longview”) – Mr. Pompo stated that “Fieldstone/Longview” has requested a meeting with himself and township staff to discuss their options available for the completion of the site and the bond posted by the initial developer. Mr. Pompo also stated that he asked township engineer Chris Della Penna if the infiltration basin has been installed and he said, pursuant to the requirements of the Conservation District and the Township, that the infiltration basin has been installed but there are still outstanding items. Mr. Makely asked Mr. Pompo if “Fieldstone/Longview” is showing “good faith” in bringing the site up to specifications. Mr. Pompo replied that he is aware that they only installed the basin. Mr. Porter asked Mr. Pompo if the township calls the bond are they responsible for all the work. Mr. Pompo replied that the township has no assurance that the amount of the bond is sufficient to complete the work. Mr. Pompo also stated that he relayed to “Fieldstone/Longview’s” attorney Greg Adelson that he does not anticipate that the Board will change their position on the bond. Mr. Porter asked Mr. Pompo if Mr. Della Penna should keep contacting “Fieldstone/Longview” about the remaining work to be completed. Mr. Pompo replied that this would be an option, it’s a decision that the township would make, and one that apparently “Fieldstone/Longview” would like where the township is holding them in violation, and call the bond. Mr. Porter asked Mr. Pompo if the township could ask them to post more security, and Mr. Pompo replied if there is an absolute violation of an ordinance. Mr. Pompo suggested taking the first step of setting a meeting date for discussion. The Board agreed to invite “Fieldstone/Longview” to the April 9, 2013 workshop at 6:30 PM. Mr. Pompo asked the Board if he should put something together on this issue. Mr. Makely replied “yes.”

Manchester Farms Financial Security Agreement – Mr. Pompo stated that the township received a January 15, 2013 letter from Eric Schrock, Dewey Homes, giving notice of their intention to reach completion of their project and dedicate the project to the township. Also, included was an analysis from E.B. Walsh of how much financial security they feel, by law, needs to be maintained by the township based on the amount of work that needs to be completed particularly for Phase II. Mr. Pompo stated that there is nothing in the letter for which the township has to take action on. Mr. Pompo also stated that there are time frames set within the Municipal Planning Code that when a developer represents to the township, by certified mail, that they

have completed the improvements, the township has a time frame to do an inspection and report what is and is not completed, and does not feel that this letter is evoking that provision.

Airport District Overlay Ordinance – Mr. Pompo stated that this type of ordinance has to be adopted by every municipality within a hazard area of a public airport to make sure that structures are not permitted or erected that would in any way interfere with a flight path. Mr. Pompo also stated that G.O. Carlson Airport and PennDot have developed a \$2,000.00 grant to offset the cost of enacting this ordinance. Mr. Pompo informed the Board that due to an advertisement error, the hearing cannot be held tonight and asked the Board for permission to re advertise the hearing for March 26, 2013 Board's meeting, at his firm's cost. The Board approved Mr. Pompo's request to re advertise.

LEGAL ISSUES:

South Brandywine Middle School flashing warning device – Mr. Toth made a motion to authorize the Chairman to sign the South Brandywine Middle School flashing warning device plan, permit #S-5226-01. Mr. Pomorski seconded. Vote: Unanimous.

K&W February 11, 2013 memorandum – Michael McClintock, Chairman, stated that moving the pump station and/or locating a restroom (which would need to connect to the pump station) elsewhere on the property would incur additional costs that Coatesville Area School District and or Pennsylvania American Water Company would not pay for. All the Park and Recreation Commission ("P&RC") members agree that a pavilion structure developed in conjunction with the proposed pump station, enclosed at the rear of the pavilion, in the location identified just off of Strasburg Road would better serve East Fallowfield residents/users of the park. Mr. Toth stated that the township should find out if the pavilion is permitted with the park grant. Mr. Pompo recommended taking the plan, attached to the memo to the county open space staff and see if this is consistent with the declaration that has been filed. Jan Bowers, "P&RC", stated an easement will be needed as well.

West Chester/South Caln Road Improvement Agreement – Mr. Pompo presented the Board with a draft termination agreement regarding the West Chester Road/South Caln Road intersection project, as the Board directed him to do so. Mr. Pompo stated that it is difficult to implement the existing agreement with all the current factors, such as an agreement to construct a designed project where the cost has exceeded the amount of money collected and "Dewey" has no responsibility to actually build the project until there is enough money to do so. There have been some changed circumstances, with respect the township having the ability to put in the four way stop sign that has addressed some of the issues with the intersection but not all of them. Also, the design of the project, as presently constituted, requires the acquisition of some off site temporary construction easements which have become an issue. Also, developers that are involved including "Dewey" with Manchester Farms trying to exit, and Moser with respect to the Northwoods Development ("Northwoods"), that is close to completion and other developments that are slated to contribute but are not completed such as Ridgecrest and the Dennis Satnick development. Mr. Pompo recommended to the Board that it may be in the best interest of the township to seek a way to terminate the existing agreement and essentially get a signoff from "Dewey" and specifically Moser Inc. ("Moser"), who still has an obligation to contribute additional funds to the agreement, to essentially terminate this agreement, set up the already collected funding in addition to the funding that has been agreed by "Moser" through their approvals. Mr. Makely asked Mr. Pompo the total amount of the contributions. Mr. Pompo replied \$248,000.00 minus the \$56,000.00 already spent. Mr. Pompo also stated that there is still an outstanding amount of \$13,500.00 from "Northwood's", \$4,200.00 from Harkins Farm, the Satnick development, and \$35,000.00 from Ridgecrest. Mr. Pompo then stated that the agreement is structured as to keep this money as a dedicated fund for the township to use at the intersection and that vicinity for a set period of time of ten years, and if the funds are not used within that time the township could use the money for anything. Mr. Amentas asked Mr. Pompo why has "Northwood's" money been escrowed but not transferred. Mr. Pompo replied that there is the \$500.00 per unit and the \$37,000.00 escrow to cover the cost of the flashing yellow lights. Mr. Porter asked Mr. Pompo the total cost of the road improvement. Mr. Pompo replied that the last estimate was obtained by "Dewey" from Bull Dog Construction in April 2012 of \$291,801.00 assuming that the intersection does not warrant a traffic light, but construction a flashing yellow light. Mr. Porter asked Mr. Pompo how it was determined that Providence Hill had to pay \$109,000.00. Mr. Pompo replied that there was a negotiated "per lot" charge. Mr. Makely asked Mr. Pompo if there was a stipulation that if the cost changed, that the "per lot" fee could change. Mr. Pompo replied "yes." Mr. Porter stated that this contract would allow "Dewey" to walk away from responsibility for the road improvement and would benefit "Moser" in regards to the light. Mr. Amentas replied that he thinks the contract with "Dewey" should be terminated because it gives the township more flexibility, and gives the township the opportunity to take the money back and use it anyway they want. Mr. Makely directed Mrs. Miller to put further discussion on the March 12, 2013 BOS workshop.

Resolution 2013-04 Comprehensive Plan update – Mr. Toth made a motion to adopt Resolution 2013-04 accepting the proposal of Ray Ott & Associates to prepare the East Fallowfield Township Comprehensive Plan Update solicitor draft 2/21/13. Mr. Toth withdrew his motion. Mr. Amentas made a motion to adopt Resolution 2013-04 accepting the proposal of Ray Ott & Associates to prepare the East Fallowfield Township Comprehensive Plan update in accordance with the attached proposal

dated May 24, 2011 specifically alternative #1 of the proposal. Mr. Makely seconded. Buddy Rhoades asked the Board what the total cost of the comprehensive plan is. Mr. Makely replied "\$58,000.00 for the total grant minus any grant that would be awarded." Vote: Unanimous.

Mr. Amentas made a motion to authorize the township to contribute up to 30% of the proposed fee for Mr. Ott's completion of the comprehensive plan update in the interest of enhancing the township's chances to obtain the applicable grant. Mr. Toth seconded. Vote: Unanimous.

Resolution 2013-05 – Mr. Makely made a motion authorizing the destruction of township records as outlined in Resolution 2013-05. Mr. Toth seconded. Mr. Makely restated his motion adding the destruction list up to and including 2005 accounts payable invoices, up to and including 2009 time cards, up to and including 2005 purchase orders, and up to and including year 2000 real estate invoices. Mr. Porter asked Mrs. Moore if the data for the time records and attendance records has been carried over to QuickBooks. Mrs. Moore replied that she has payroll records with the payroll company. Mr. Toth seconded. Vote: Unanimous.

TREASURER'S REPORT:

January 31, 2013 treasurer's report – Mr. Makely made a motion to approve the January 31, 2013 Treasurer's report as presented. Mr. Toth seconded. Vote: Unanimous.

January 2013 payment authorizations – Mr. Makely made a motion to approve the January 2013 payment authorizations as presented. Mr. Toth seconded. Mr. Porter asked Mrs. Moore about all the membership checks. Mrs. Moore replied that the cluster of annual membership fees is from the Historical Commission paid out of their annual budget. Mr. Porter also asked about check #21966 Western Chester County Emergency Response Team. Mrs. Moore replied that is for the police annual membership. Mr. Porter also asked about check #21985 PA State Association of Boroughs. Mrs. Moore replied that is an annual fee to belong to the Association of Boroughs which puts on webinars such as the one Mr. Porter just completed. Mr. Porter asked Mrs. Moore to put a description of what checks are for in the memo field. Mrs. Moore replied that she will start to do that. Mr. Makely asked Mrs. Moore if the Historical Commission is utilizing all of their memberships. Mrs. Moore directed Mr. Makely to Garth Monaghan in the audience. Mr. Monaghan, Historical Commission ("HC") replied that they are using all of their memberships. Mr. Monaghan also stated that the "HC" budgeted \$750.00 was used very carefully in selecting the organizations that would benefit them. Vote: Unanimous.

Pension Plan Chief Administrative Officer position appointment – Mr. Makely made a motion to appoint the person holding the position of Township Treasurer to be the Chief Administrative Officer of the police and non-uniform pension plans. Mr. Toth seconded. Vote: Unanimous.

POLICE DEPARTMENT:

January 2012 police report – No presentation – See report

Mr. Makely stated that Chief Porter is handling a township accident so he was unable to attend tonight's meeting.

PARK AND RECREATION:

February 2013 report – Chairman Michael McClintock presented the February 2013 Park and Recreation report.

January 3, 2013 approved minutes – No report – See report

Proposed bridge and trail project – Mr. Makely made a motion authorizing eight hours of the township engineer's time to develop the scope of work for the design services associated with the proposed bridge and trail project, to be paid out of the Park and Recreation General Fund. Mr. Toth seconded. Jan Bowers stated that this time is within their budget and it shows the county that the township is actively proceeding with this project and gives them more leverage in the grant consideration.

Chester County Land Preservation Covenants – Mr. Makely made a motion to add the Chester County Land Preservation Covenants to the 30.65 acre Brinton Station Open Space parcel, should East Fallowfield Township be awarded the Chester County Grant. Mr. Toth seconded. Mr. Porter asked Mr. Pompo if this parcel is already isolated as open space. Mr. Pompo replied that in accordance with the approvals, the ordinance at the time and the notes on the plans state it is essentially restricted as open space and limited from further subdivision and development. Mr. Porter asked Mr. Pompo if anything can be done to this parcel. Mr. Pompo replied that should the township desire, it could be developed with certain recreational facilities as a park, and it also has direct access to West Chester Road. Vote: Unanimous.

HISTORICAL COMMISSION:

No presentation

PLANNING COMMISSION:

January 14, 2013 approved minutes – No presentation – See report

Garth Monaghan stated that K&W Engineering never went back to them regarding South Brandywine Middle School's sewer/water project and requested if they could be included in further discussions and input. Mr. Makely directed Mrs. Miller to send a letter to K&W Engineering stating that they have not been working in conjunction with the Planning Commission and request their attendance at their next meeting.

PUBLIC WORKS DEPARTMENT:

January 2013 road and vehicle report – No presentation – See report.

Mr. Toth stated that the Department of Environmental Protection has approved East Fallowfield Township's Act 101 Recycling Program Performance Grant submitted by Tag Gathercole, in the amount of \$13,315.00.

Mount Carmel Road paving – Mr. Makely made a motion to authorize the township public works director and the township engineer to put Mount Carmel Road, from the township line to Strasburg Road, out to bid for approximately 0.5 mile using ID-2 wearing course and specifications to be laid out by the township engineer. Mr. Toth seconded. Vote: Unanimous.

Park Avenue paving – Mr. Makely made a motion to authorize the township public works director and the township engineer to put Park Avenue to Glenrose Road out to bid for approximately one mile using ID-2 wearing course as designed by the township engineer. Mr. Toth seconded. Vote: Unanimous.

Mr. Porter suggested having Tag attend meetings starting in March and April to discuss what is available in his budget as far as other roads being done.

UNFINISHED BUSINESS:

No business presented

CITIZENS BY REQUEST:

Kevin Richardson regarding 311-315 Providence Hill Road stormwater management – Mr. Richardson of 315 Providence Hill asked the Board for an update on what the township is doing to hold Rouse Chamberlain accountable to make sure they do what they are supposed to do regarding Karen Cassidy, Matthew Midkiff, and his stormwater issues. Mr. Richardson also commented on E. B. Walsh's missing civil engineer seal and signature on their document and incorrect coefficient factor ("C factor"). Mr. Porter asked Mr. Pompo to respond to Mr. Richardson's comments. Mr. Pompo replied that if this plan was going to be utilized, to give to a contractor to do work, it would have to be sealed. Mr. Makely directed Mrs. Miller to invite Chris Della Penna to the March 26 meeting for an update on this issue and for Mr. Della Penna to call Mr. Richardson before the meeting.

NEW BUSINESS:

"Keep Pennsylvania Beautiful Day" – Mr. Toth announced that the township will have a cleanup day on Saturday, April 27, 2013 with a rain date of Saturday, May 4, 2013.

Mr. Makely stated that there are "Green Guide for Property Management" pamphlets in the back of the room for residents to take.

PUBLIC PARTICIPATION:

Karen Cassidy of 311 Providence Hill Road asked the Board what is their time frame that they are holding "Rouse" to for them to take care of their back yards regarding water management. Mr. Makely replied that if there's something that the township engineer is not doing, then the township is responsible. Mr. Porter disagreed with Mr. Makely because Mr. Della Penna is a third party, and the Board can only base their decision upon his information. Mr. Amentas stated that on several occasions Mr. Richardson addressed the Board and asked the Board to force "Rouse" to do what they were contracted to do, and he stated that he said the Board is not authorized to do that. Mr. Amentas asked Mr. Richardson what exactly he wants the Board to do. Mr. Richardson asked what the township has to hold "Rouse." Mr. Amentas replied "\$13,000.00." Mr. Amentas also stated that the Board cannot do anything unilaterally; the homeowners and "Rouse" have to come to some sort of

understanding as to what is going to happen. The Board cannot impose anything on the homeowner or "Rouse" in regards to a specific fix.

Clarence Rhoades of 2176 Strasburg Road stated that there are piles of dirt, without straw, in Fieldstone Development, and the inlets are cracked.

Kevin Richardson of 315 Providence Hill Road asked Mr. Pompo if "Rouse" had the right to change the grade on the property once the plans were submitted. Mr. Pompo replied "because they did and it's there and it's owned by a resident right now, the answer is yes." Mr. Pompo stated that the Board listened to the residents, and had "Rouse" come up with a plan agreed to by the township engineer and not agreed to by the property owners. Mr. Pompo also stated that he doesn't see that the Board is in a position where they will impose something on "Rouse" without the cooperation of the residents or their own professional signing off on it. Mr. Pompo told Mr. Richardson to put his issues in writing to "Rouse" and the township engineer, and then the Board can go back to "Rouse" and ask them to revise their plans to meet those concerns, and if he disagrees he can tell them why. Those types of technical issues can then be arbitrated by another professional or the township engineer and then this can move forward.

Mr. Richardson asked the Board the status on another engineer looking at their stormwater issues. Mr. Porter asked Mrs. Miller if any of the engineer bidders replied to this request. Mrs. Miller replied that one company decided to pull their bid, and another one said that this would be unethical for them to do.

ADJOURNMENT: Mr. Makely made a motion to adjourn the Board of Supervisors meeting at 8:05 PM. Mr. Toth seconded.
Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary