

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

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

IN ATTENDANCE: Mark Toth, Vice Chairman; Chris Amentas, Member; Ed Porter, Member; Joe Pomorski, Member; Denise Miller, Township Secretary; Rosemary Moore, Township Treasurer; Tag Gathercole, Public Works Director; Vince Pompo, Township Solicitor; and Chris Della Penna, Township Engineer. Chairman Chris Makely was absent.

“Airport District Overlay Ordinance” hearing

Mr. Pompo read a quote from the Chester County Planning Commission’s February 22, 2013 review letter, “because the proposed ordinance is based on the model prepared by the PennDOT Bureau of Aviation, we have no comments on the proposed East Fallowfield Township proposed Airport District Overlay Ordinance.” Mr. Pompo also stated that the Township Planning Commission voiced their concern that this ordinance would add an additional permit requirement, relative to properties within these approach zones. Mr. Pompo stated that he believes that there is a requirement to obtain a permit if you meet certain criteria in the ordinance and the process set forth in the ordinance is the process that is required by PennDOT and the Federal Bureau of Aviation Administration.

Mr. Pompo stated that this proposed ordinance is before the Board because there was a previous court case which the court held, under state law, every township that is within a certain impact area on a public airport is required to have an Airport Overlay Ordinance. The purpose of the ordinance is to regulate what potentially may be a structure or other construction that would impact, by way of height, the approaches to the airport. Mr. Pompo also stated that the Board would need to enact this ordinance tonight in order to be awarded a \$2,000.00 grant.

Mr. Monaghan Planning Commission Member, asked the Board for clarification on when the building inspector would be involved. Mr. Pompo replied that if a structure is higher than what you would expect for a building, 35-45 feet in height, then the building inspector should require that the process be followed through. Wes Maughan supported the adoption of the Airport District Overlay Ordinance. John Davis asked the Board if the G.O. Carlson Airport is going to expand. Mr. Pompo replied that it has not been discussed in this context. Mr. Pompo also stated that the airport has a plan to improve and build a new runway to accommodate larger craft and to install instrumentation on the west side of the airport to allow planes to land from the west during inclement weather. Mr. Amentas made a motion to adopt Ordinance 2013-01 of East Fallowfield Township setting forth its authority to establish an “Airport District Overlay Ordinance” to include: Purposes of the District, Definitions, Airport Zones, Airport Zone Height Limitations; Permits Required; use Restrictions; Nonconforming Uses; Variances; Conflicting Regulations; and Amending the official zoning map by the adoption of an official supplementary Airport District Overlay Map. Solicitor Draft 1/28/13. Mr. Pomorski seconded. Mr. Porter asked Mr. Pompo where the township ordinances are lacking where the township has to adopt this ordinance. Mr. Pompo replied that the ordinance has tight limitations for everything including communications tower which he believes is 120 feet, so from that perspective there is no need for the ordinance, in that sense. However the existing ordinance does not, in any way, relate those height limitations to the airport itself, which this ordinance does and the present ordinance does not have any procedure for gaining a permit from the FAA or PennDOT if you would encroach on the height limitations or the provisions that they asked for variances from them. Mr. Porter asked Mr. Pompo why the Commonwealth didn’t enact this ordinance instead of requiring municipalities to enact one. Mr. Pompo replied that the statute that relates to the airport says that the township shall adopt. Mr. Amentas called for a vote. Mr. Amentas and Mr. Toth voted yea. Mr. Porter and Mr. Pomorski voted nae. Vote failed.

APPROVAL OF MINUTES:

February 12, 2013 workshop minutes – Mr. Toth made a motion to approve the February 12, 2013 workshop minutes as presented. Mr. Pomorski seconded. Vote: Unanimous.

February 26, 2013 BOS minutes – Mr. Toth made a motion to approve the February 26, 2013 BOS minutes as presented. Mr. Amentas seconded. Vote: Unanimous.

SOLICITOR REPORT:

Longview/Fieldstone – Mr. Pompo informed the Board that Longview/Fieldstone will attend the April 9, 2013 workshop meeting to discuss the purchase of the Fieldstone Development and the subdivision bond.

Chester County Open Space meeting – Mr. Pompo stated that he met with the Chester County Open Space office and they stated that they take no issue with underground facilities, but need to approve any above ground structures associated with the sewer line as well as get approval from the Board of Commissioners. Mr. Pompo also stated that the township would have to write a letter that specifies their request as to the alignment and the location and submit it to the Open Space Office who will send their recommendation to the County Commissioners for their ultimate decision. Mr. Pompo stated that there was also a meeting at the township park.

Mr. Pompo stated that the Park and Recreation Commission has indicated that if the proposed structure was going to happen they would like to have it moved, from where it is in concept now, slightly to the east with the line in a different alignment from the pump station.

LEGAL ISSUES:

Providence Hill stormwater discussion – Steve Gallo, Rouse Chamberlin (“Rouse”), stated that on October 9, 2013 he presented a plan to the township board and the township engineer, and the township engineer concurred with their plan approach. Mr. Gallo also stated that he is working with Kevin Richardson to move forward and Karen Cassidy filed a civil complaint that was ruled in favor of “Rouse” and is currently in appeal. Mr. Porter asked Mr. Gallo what the civil complaint was regarding. Mr. Gallo replied it was over the grading issue. Mr. Porter asked Mr. Della Penna to give his thoughts. Mr. Della Penna replied that he acknowledges that there is an issue with drainage that needs to be corrected soon. Mr. Gallo stated that the sooner they have cooperation from all the residents the sooner they can complete their proposed plan. Mr. Amentas stated that he is inclined to have another set of eyes look at this issue. Mr. Amentas also stated that he will soon introduce a motion to hire another township engineer and, depending on that motion, that engineer may be the other set of eyes. Mr. Porter asked Mr. Della Penna if he does a field report as new homes are constructed. Mr. Della Penna replied that typically what happens now is when the building inspector goes out to do his final seal inspections he is asked to do a grade inspection of the lot. Mr. Porter asked Mr. Della Penna if he has any involvement on issuing a Use and Occupancy (“U&O”) permit when his field reports identify uncompleted items. Mr. Della Penna replied that once he submits his report to the building inspector he assumes that he applies those conditions to the “U&O.” Mr. Porter asked Mr. Della Penna about the previous meeting comments regarding a plan not sealed and the coefficient of sand used as far as doing the calculations of new homes. Mr. Della Penna replied that the engineer used a standard coefficient of runoff for lawn using the rational equation and the plan was not sealed but the engineer is a very reputable firm.

Liquid Fuel Money/Road work – Tag Gathercole reported that the Park Avenue paving is currently out to bid and he would like to oil and chip Roland Road, Fairview Road, Doe Run Road, and Molineux Road in 2013. Mr. Gathercole also stated that the Liquid Fuel balance is currently \$313,000.00 and presented the Board with a five year plan for road work. Mr. Porter asked Mr. Gathercole if he is “crack sealing” roads this year. Mr. Gathercole replied “yes.” Mr. Porter asked Mr. Gathercole to make a list of the roads he would like to “crack seal.” Mr. Porter asked Tag what work he will perform on Mount Carmel Road. Mr. Gathercole replied that they will do a limited amount of work because of the development of Scott Farm Development.

Mr. Gathercole asked the Board to approve a road crew member to work two hours on Saturday, April 6, 2013 in order to take township documents, which were previously approved for destruction by the Board, to the Saturday April 6, 2013 free shredding event. The Board approved Mr. Gathercoles’ request.

Mr. Porter asked Mr. Gathercole if he is storing salt offsite. Mr. Gathercole replied “no.” Mr. Porter asked Mr. Gathercole how much salt should be stored onsite at the township. Mr. Gathercole replied approximately eight hundred ton. Mr. Toth asked Mr. Gathercole about the structure stability of the salt shed. Mr. Gathercole replied that they will do some work on it in 2014.

Jansen lot line subdivision – Mr. Padula from Register Associates presented a lot line subdivision change for Mr. Robert Jansen. Mr. Porter asked Mr. Pompo if he approved the waivers in Mr. Della Penna’s letter. Mr. Pompo replied that he approved the waivers based on the type of subdivision submitted. Mr. Amentas made a motion based upon the Della Penna Engineering March 15, 2013 letter approving the March 14, 2013 subdivision map of a 2.148 acre parcel owned by Michael L. & Kathryn A. Poole located at 240 Glenrose Road and conveys it to Robert P. and Ashley G. Jansen of 222 Glenrose Road. Mr. Toth seconded. Mr. Pompo suggested adding the requested waivers to the motion. Mr. Amentas withdrew his motion. Mr. Amentas made a motion to approve a subdivision plan which proposes to subdivide a 2.148 acre parcel from lands of Michael L. and Kathryn A. Poole and conveying it to Robert P. and Ashley G. Jansen. The plan calls for the combination of two parcels which are 2.148 acres and 2.975 acres respectfully and further move to grant the requested waivers by the applicant in accordance with Mr. Della Penna’s March 15, 2013 letter. Mr. Toth seconded. Vote: Unanimous.

Stormwater Management Facilities Maintenance Agreement – Mr. Toth made a motion to approve the J. Callahan Construction, 75 Horizon Drive, Stormwater Management Facilities Maintenance Agreement, last revised 2/4/13. Mr. Amentas seconded. Mr. Porter asked Mr. Pompo to explain this agreement. Mr. Pompo replied that the township ordinance requires a Stormwater Management Facilities Maintenance Agreement that outlines the obligations of the property owner for the future maintenance of the facility, and also gives certain rights but not obligations to the township regarding enforcement and inspections, whenever there is a type of structural stormwater facility structure of the house. Mr. Porter asked Mr. Della Penna if he had any comments to add. Mr. Della Penna replied that this is a corner lot on Horizon Drive that is proposing construction of a new house with an underground seepage bed. Mr. Della Penna also replied that all items have been satisfied except this agreement. Vote: Unanimous.

Manchester Farms Financial Security Agreement – Mr. Eric Schrock was not present.

Agreement to Terminate Road Construction Improvement Agreement – Mr. Porter asked Mr. Pompo why the 2004 original agreement is for a ten year period. Mr. Pompo replied that he felt that ten years was a reasonable time period because since the original basis for asking for these contributions had to do with improvements in the area of the intersection, the township should agree it's going to utilize the funds in that area and because he didn't want it to get hung up that the money sits and never gets used. Mr. Porter stated that he would like a plan B before he moves forward with this agreement. Mr. Porter also stated that he is concerned with the stormwater issue and the line of sight at the West Chester and South Caln intersection. Mr. Amentas stated that until the Board knows if they can gain access to the money in the account, at this point or some future point, he doesn't know that they are in a position to understand exactly what they can implement down there. Mr. Amentas made a motion authorizing Mr. Pompo to proceed with negotiations with Dewey Homes ("Dewey") and Moser Builders ("Moser") with respect to the Agreement to Terminate Road Construction Improvement, Solicitor Draft 2/18/13. Mr. Toth seconded. Kevin Richardson asked the Board if this agreement relieves "Dewey" and "Moser" of their responsibilities. Mr. Amentas replied that "Moser" is still accountable for his responsibilities, and the original contract doesn't specify how much "Dewey" would perform the work for. Mr. Porter stated that two supervisor's may have a conflict of interest because of a former campaign that "Moser" contributed money to: "Voice of Housing Home Builder Association" of Chester and Delaware County, who contributed to them. Mr. Amentas called for a vote. Mr. Toth yea, Mr. Porter nay, Mr. Amentas abstained, and no comment made by Mr. Pomorski. Vote failed.

Trash contract discussion – Don Isabella stated that their contract expires in November and asked the Board if they would like to extend it for one or two years. Mr. Toth stated that it would be in the township's best financial interest to put the trash contract out to bid. Mr. Porter asked Mr. Gathercole if the township is losing out in the current contract regarding recyclables. Mr. Gathercole replied that the township could apply for grants and do their own recycling pickup. Mr. Gathercole also stated that the Chester County Recycling Authority is applying for a grant to buy a leaf truck.

Penalty for working without a permit – Mr. Toth stated Mrs. Miller brought it to his attention to consider adopting a penalty for residents who do work without a permit. The Board would like to get more information from Rob McLarnon on the penalty amount.

TowerCo Assets, LLC – Mr. Amentas made a motion to authorize the Vice Chairman to sign the TowerCo. Assets, LLC removal Bond #CMS249172 in the amount of \$39,000.00. Mr. Pomorski seconded. Vote: unanimous.

PUBLIC WORKS DEPARTMENT:

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

Weeds, Inc. – Mr. Toth made a motion approving the Weeds Inc. contract dated 12/5/12 for Program #1 a non selective application for \$1,800.00, and Program #2 a brush and broadleaf application for \$2,195.00, to be paid out of the Liquid Fuel Fund. Mr. Pomorski seconded. Vote: Unanimous.

Mr. Pompo was excused from the meeting.

TREASURER'S REPORT:

February 28, 2013 treasurer's report – Mr. Toth made a motion to approve the February 28, 2013 Treasurer's report as presented. Mr. Porter seconded. Vote: Unanimous.

February 2013 payment authorizations – Mr. Toth made a motion to approve the February 2013 payment authorizations as presented. Mr. Porter seconded. Vote: Unanimous.

POLICE DEPARTMENT:

February 2012 police report – No presentation – See report

PARK AND RECREATION: Michael McClintock, Brian Carling, and Peter Massaro

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

Mr. McClintock presented the Board with a breakdown of the funding of the park. Mr. McClintock also presented the Board with an update of the sewer project in the park and restated that the Park and Recreation Commission do not support their decision and asked the Board to re-evaluate their decision. Mr. Porter asked Mr. McClintock if the Planning Commission agreed with them. Mr. McClintock replied “yes.” Mr. Pomorski stated that based on the Planning Commission meeting that he attended he would like to see this matter on the next meeting agenda. Mr. Porter agreed. Mr. Porter asked when the Dennis Run Development homes were built. Peter Massaro stated that he has lived in the “Dennis Run” Development for twenty two years and is not aware of any homes that have septic problems. Planning Commission Member, John Schwab stated that they used the comprehensive plan (“comp plan”) as their “guiding light” for development and growth of the township. Mr. Schwab also stated that the “comp plan” identifies the Strasburg line as a break point between development or where public water and sewer should go, and thought that in the best interest of the township that development would be concentrated north of Strasburg Road and preserve open space in the south part from Strasburg Road down. Mr. Schwab also stated that moving water and sewer along Strasburg Road with the intention of moving it across the road to the south violates the basic principal of the comp plan. Michael McClintock stated that he is concerned that the township will not get any grant money to update the “comp plan” since the current route violates the “comp plan.” Brian Carling asked the Board to ask Mr. MacCombie to bring facts on paper to the workshop meeting. Garth Monaghan asked the Board who thought that the current route was a good idea. Mr. Amentas replied that the design has been discussed in a public forum for years. Mr. Amentas also stated that the primary reason for the current route is to provide increased connections for the area south of Strasburg Road. Mr. McClintock asked Mr. Amentas why the area south of Strasburg Road is more important. Mr. Toth stated that one plan calls for gravity and a booster, and the other for a pump station. Wes Maughan asked the Board for both routes in writing. Mr. Toth replied that they will be in the back of the room at the April 9, 2013 workshop.

The Board agreed to further discuss this issue at the April 9, 2013 workshop with Mr. MacCombie, PAWC, Mark Kurowski, Planning Commission, and the Park and Recreation Commission Members are invited to attend.

HISTORICAL COMMISSION:

Historical Commission 2013 Annual Report – No presentation – See report

PLANNING COMMISSION:

February 18, 2013 approved minutes – No presentation – See report

UNFINISHED BUSINESS:

Alfred Wright Zoning Hearing Board appointment – Mr. Wright gave a brief description of his interests and qualifications. Mr. Wright also suggested having multiple alternates on the Zoning Hearing Board. Mr. Toth made a motion to adopt Resolution 2013-07 appointing Alfred L. Wright, P.E. as a Zoning Hearing Board Member for the 2013 to 2015 term. Mr. Pomorski seconded. Vote: Unanimous.

Engineer bids – Mr. Board agreed to retain Chris Della Penna as the 2013 township engineer. Mr. Della Penna thanked the Board for his reappointment and asked the Board if there is a single Board Member that should be his liaison. Mr. Porter suggested emailing the entire Board with his concerns and updates.

NEW BUSINESS:

New cost measures regarding “copies made for meetings” – The Board agreed to reduce costs and instructed Mrs. Miller to put copies of the meeting agendas, minutes, financials, and all commission minutes in the back of the room for resident review. Mr. Toth stated that if anyone would like to see other reports to contact the township office.

Mr. Porter stated that this agenda did not have “Citizens by Request” on it, and asked the Board Members to have it put back on. Mr. Toth stated that he would like to redefine “Citizens by Request” to specific non addressable comments pursuant to the agenda. The Board agreed to keep “Citizens by Request” on the agenda.

PUBLIC PARTICIPATION:

Wes Maughan of GlenLee Road commented on State and County money for vehicle fuel and supported a penalty for working without a permit.

Kevin Richardson of 315 Providence Hill Road stated that there should be a follow up procedure to make sure all permits are done correctly.

Siti Crook of 2840 Strasburg Road stated that the township should have written procedures and policies for residents to follow.

Brian Carling of 26 Somerset Drive commented on a resident who built a garage different than the permit plans and had to tear it down and rebuild.

John Davis of 224 Wilmington Road supported keeping "Citizens by Request" on the agenda.

ADJOURNMENT: Mr. Toth made a motion to adjourn the Board of Supervisors meeting at 8:45 PM. Mr. Amentas seconded.
Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary