

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
April 23, 2013
Approved minutes
6:30 PM

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

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

“PRESCRIPTION TAKE BACK” – Officer Justin Fonock announced that on April 27, 2013 there will be a “Prescription Drug Take Back” day where residents can bring unused and old prescriptions to the township building from 10:00 AM to 2:00 PM.

APPROVAL OF MINUTES:

March 26, 2013 BOS minutes – Mr. Toth made a motion to approve the March 26, 2013 BOS minutes as presented with Mr. Amentas’ conflict of interest form to be attached. Mr. Porter seconded. Mr. Makely abstained because he was not present at the March 26, 2013 BOS meeting. Vote passed.

Agricultural Security Area Committee March 20, 2013 approved minutes – No presentation – See report

Western Chester County Council of Government March 27, 2013 minutes – No presentation – See report

Act 537 update – Jamie MacCombie P.E. stated that the Board asked him to review and amend the Act 537 document that the Board commissioned Grafton Associates to prepare in 2002. Mr. MacCombie also stated that he amended the document in 2003 and 2004 and then the Board passed a resolution requesting that the document be forwarded to the Pennsylvania Department of Environmental Protection (“PADEP”) for review. However the wrong document was sent and they did not review it in their 120 day time period because they felt it was incomplete, but did not inform the municipality of this. Mr. MacCombie stated that the PADEP sent a letter in November 2012 stating that they want an answer on the township resubmission by December 12 or they will forward all information back to the township. At this time Mr. MacCombie stated that he is not sure if everything was sent back to the township. Mr. Porter asked Mr. MacCombie why the response to the PADEP was not handled in 2006. Mr. MacCombie stated that the Board asked for “deemed approval” but was denied and the Board did nothing further. Mr. MacCombie stated that it would cost approximately \$16,000.00 to \$20,000.00 to “patch” the document and \$50,000.00 to redo the whole document. Mr. Porter asked Mr. MacCombie what he would “patch” in the document and what would be the time frame to do so. Mr. MacCombie replied that the service areas need to be resolved, and the PADEP should be contacted to see if the township needs to file a new “plan of study” or reply to the March 24, 2006 letter and move forward. Mr. MacCombie also stated that the document has to go in front of the Township Planning Commission, Chester County Planning Commission, and Health Department for their comments, and then there has to be a thirty day public comment period followed by a resolution passed by the Board. Then the whole document can be forwarded to the PADEP. The Board asked Mr. MacCombie to contact the PADEP and get their response on how the township should proceed with the Act 537 plan.

Park Avenue road paving bid award – Mr. Makely made a motion to accept Long’s Asphalt Inc. road paving bid in the amount of \$99,433.00 for the paving of one mile of Park Avenue, using ID-2 wearing course, per Chris Della Penna’s April 22, 2013 recommendation letter. Mr. Porter seconded. Vote: Unanimous.

Attorney Ron Agulnick, representing Manchester Farms, asked the Board if they would move item 8 c. after Citizens by Request.

CITIZENS BY REQUEST:

Matthew Fogg – Mr. Fogg stated that the roadways in Manchester Farms, Phase II, are no longer accessible and the empty lot on Cyprus Lane has become a “land fill.”

Jennifer Borneman – Mrs. Borneman agreed with Mr. Fogg’s comments.

Mr. Porter asked Mr. Pompo if the Home Owners Association (“HOA”) has any power over the empty lot on Cyprus Lane. Mr. Pompo replied that we would have to read the declaration.

Jim Roland – “HOA” president Mr. Roland agreed with Mr. Fogg’s comments and asked the Board how they can move forward to get the work completed in the Manchester Farms Development. Mr. Roland also stated that he is concerned with emergency vehicles being able to access their roads.

Manchester Farms Financial Security Agreement – Attorney Ron Agulnick stated that the Supervisors need to restructure the security agreement so their contractors can be paid to do work. Mr. Agulnick also stated that the process when a developer is ready to get the development inspected is to send the township a certified notice requesting that the township engineer do an inspection, and then have his report approved/disapproved at a public meeting, and send the developer a certified return receipt mailing of that decision. Everything was done except the certified return receipt of the Boards approval/disapproval of the engineer’s report. As a result of this, the time passed and they were released of all liability under the bond, so Phase I has no bond.

Mr. Agulnick stated that the legislation passed a permit extension act until 2016 but they do not want to wait until then to do the Phase II work and they will not do any work until there is money to pay the contractors. Mr. Agulnick also stated that they submitted a spreadsheet to the township engineer on what is remaining to be completed with the cost to do the work, and if that restructuring is approved then the problems will go away, if you don’t they will wait until 2016. Mr. Pompo reminded the Board that in Fall 2012 the Board considered the request to restructure and at that point and time it was in order to take funds that were not allocated for this concrete construction repair work, that Mr. Agulnick referenced, to take that out of the contingency. Based on the Board’s direction the agreement was reviewed, between the developer and the township, which states that the contingency funds are to be held until all of the improvements are finally completed. Mr. Pompo stated that he advised the Board that in order for those contingency funds to be reallocated, for another purpose, the Board would have to agree to change the agreement. Mr. Pompo further stated that the proposal, submitted by Eric Schrock, is to take monies that are allocated in the contingency fund of \$324,128.48 and reallocate that to the first payoff for the concrete repair work, which was requested last year, and second to reallocate a portion of that money to do the repairs and completions that are necessary in order to address the actual issues. Mr. Porter asked Mr. Pompo if the same contract was used for the other developments in the township. Mr. Pompo replied “yes.” Mr. Porter asked Mr. Schrock if he received the Clean Streams Act violation from the Conservation District. Mr. Schrock replied that the violation is for the silt fence on lot 24 and the finished grading of the last three lots, both of which they will do. Mr. Schrock also stated that the township has no jurisdiction over lot 24 because it is owned by Dewey Homes and it will be cleaned up in the next couple of weeks.

Mr. Pompo stated that relative to the notice of final completed, for Phase I, that was sent to the township by the developer that the township followed the rules within the Municipal Planning Code including the sending of the certified letter after the Board took its action. Mr. Pompo also stated that the township never received the maintenance security so the township could formally accept dedication of the roads. Mr. Agulnick replied that they were never notified of the engineer report. Mr. Pompo replied that he will research the letter. Mr. Pompo asked for direction and a time framed from the Board in which to work something out. Mr. Porter asked Mr. Pompo if someone breaks their oil pan in the development who would be responsible. Mr. Pompo replied that the developer is responsible for the roads at this time. Mr. Schrock replied that it would go on the individual’s insurance. Mr. Agulnick asked the Board if he can start to work with Mr. Pompo on the agreement. The Board gave Mr. Agulnick their approval to move ahead. The Board directed Mrs. Miller to advertise for a “special” workshop meeting on May 13, 2013 at 6:30 PM. Mr. Porter asked Mr. Pompo if you could put no more C/O’s issued, for the new homes, until the work is completed. Mr. Pompo replied that he would be looking for a very good sense of what the time frames are for which the reallocation would occur.

Mary Elvin – Ms. Elvin asked the Board to waive her \$5.00 late fee and credit her \$30.50 discount because she paid her trash and recycling invoice on January 10 and it was not posted until January 25. Mrs. Moore explained that payments go to a lockbox, at a bank, and are posted every day, also if the resident does not put their account number or address on the check then posting could be delayed. Mr. Makely, Mr. Pomorski, and Mr. Porter agreed to approve Ms. Elvin’s request and directed Mrs. Moore to do so and send her a receipt. Mr. Toth also stated that the future trash & recycling discounts should be eliminated because the administration of the discount is consuming a substantial amount of personnel time. Mr. Moore asked the Board how they should handle other requests to credit discounts or late fees. The Board directed the office staff to direct all requests to the Board meeting’s under Citizens by Request.

SOLICITOR REPORT:

County wide Act 167 Plan – Mr. Pompo stated that the County Wide Act 167 was adopted by the County Commissioners on March 27, 2013 and within six months of following the Departments of Environmental Protection approval the township will have a legal obligation to adopt, as a township ordinance, the model Act 167 stormwater management ordinance that is part of the stormwater management plan. Mr. Pompo stated that the levels of regulated activity involve any earth disturbance that is greater than 5,000 square feet or any activity such as construction that would have 1,000 square feet of impervious coverage.

Longview/Fieldstone bond – No representative present.

Chester County Transportation Improvements Inventory (“TII”) – Mr. Pompo explained that the “TII” is an ongoing effort by the County to update planned road projects. The Board had no comments regarding the “TII.”

LEGAL ISSUES:

Trash service bid options – The Board agreed to discuss further trash options for the trash contract at the next workshop meeting.

Getting rid of the trash “discount” – Mr. Toth stated that the township needs to eliminate the trash discount because the office staff is spending a lot of time regarding residents who misinterpreted it. Mr. Makely agreed. Mr. Porter disagreed because a lot of residents take advantage of the discount and pay the fee at the beginning of the year. Mrs. Moore explained that residents who paid after January 18 were sent a statement for \$30.50 and residents interpreted it as a “late fee” and not a “discount.” Mrs. Moore also stated that the office received many calls from residents who made it clear that they were very upset. Mr. Toth stated that if they bid the trash contract right then they possibly could have an annual fee of \$245.00 to \$275.00. The Board agreed to wait until the trash bid comes in to determine if they will keep the “discount.”

COG By-Laws – Mr. Pomorski asked Mr. Pompo if he had any concerns with the COG By-Laws. Mr. Pompo replied that he did not see anything legal that would be adverse to the township. Mr. Pompo pointed out Article 3, page 3; A 4 confirms that even if you are a member doesn’t mean you’re committed to a project if you don’t want to participate. Mr. Porter stated that he is concerned that East Fallowfield Township resident taxes will be used and how the costs will be divided among municipalities. Mr. Porter also stated that he would like to see more responsibility of the COG member in bringing back information to the Board and asking for approval on any kind of spending. Mr Pomorski stated that the township would sit down and discuss an agreement before it is entered into. The Board agreed to discuss this matter further at the next workshop meeting.

PUBLIC WORKS DEPARTMENT:

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

March recycling report – No presentation – See report

TREASURER’S REPORT:

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

March 2013 payment authorizations – Mr. Makely made a motion to approve the March 2013 payment authorizations as presented. Mr. Toth seconded. Mr. Porter asked Mrs. Moore what account would a supervisor working in the township office fall under. Mrs. Moore replied “account 1400.10 supervisor salaries.” Mr. Porter also asked Mrs. Moore if there was a supervisor working in the township office. Mrs. Moore replied “Mr. Toth.” Vote: Unanimous.

POLICE DEPARTMENT:

March 2013 police report – No presentation – See report

PARK AND RECREATION: Michael McClintock, Jan Bowers

April 2013 report – Member Jan Bowers presented the 2013 Park and Recreation report.

March 5, 2013 P&R minutes – No presentation – See report

E.B. Walsh & Associates – Mr. Makely made a motion to amend the existing contract with E.B. Walsh & Associates to continue engineering services for design and permitting of the bridge and trail project. Mr. Toth seconded. Vote: Unanimous. Mr. Porter asked Ms. Bowers how long the township has been using E.B. Walsh & Associates. Ms. Bowers replied since approximately 2011.

Park signs – Mr. Makely made a motion to approve the replacement of damaged signs in the park for approximately \$650.00 to be paid out of the Park and Recreation Fund. Mr. Toth seconded. Unanimous.

Ms. Bowers asked when the South Brandywine Middle School (“SBMS”) sewer project will be discussed next. The Board agreed to have a special workshop meeting on May 13, 2013 for the “SBMS” sewer project and add all the May 14, 2013 workshop items.

Ms. Bowers announced that the Park and Recreation Commission Members are having a "Hats off to Heroes" on Monday, May 27, 2013.

HISTORICAL COMMISSION:

No presentation

PLANNING COMMISSION:

March 4, 2013 approved minutes – No presentation – See report

UNFINISHED BUSINESS:

No unfinished business reported

NEW BUSINESS:

Formulation of a Comprehensive Plan Committee – Mr. Toth stated that a Comprehensive Plan Committee will need to be established. Mr. Makely directed Mrs. Miller to put this agenda item on the next workshop agenda.

Mr. Porter asked the Board if they have any interest in looking at alternative employee medical insurance. The Board agreed to ask different medical insurances to make a presentation at a date to be determined. The Board directed Mrs. Moore to research medical insurances and present her findings at the next workshop meeting.

PUBLIC PARTICIPATION:

Buddy Rhoades of 2176 Strasburg Road commented on the trash service, trash contract, township pension, police contract, employee handbook, and speaking at Board workshops.

John Davis of 224 Wilmington Road asked the Board if the Board has a vote in how much the township gets charged on projects. Mr. Pomorski replied that the COG gives the township an opportunity to set with other municipalities and work together to save money and work together. Mr. Porter commented on the high usage of equipment in sharing with municipalities and who pays for repairs or damage.

Mrs. Moore asked the Board what is the consistent policy for the office to follow when residents call and dispute their "discount" or "late fee." Mr. Makely instructed Mrs. Moore to follow the current policy. Mr. Toth asked what the office should do if someone calls tomorrow. Mr. Makely replied that they should be put on the BOS agenda and they will be heard case by case.

ADJOURNMENT: Mr. Makely made a motion to adjourn the Board of Supervisors meeting at 8:52 PM. Mr. Toth seconded. Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary