

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
January 28, 2014 Approved minutes
6:30 PM

Call to order, silent meditation and pledge of allegiance.

IN ATTENDANCE: Joe Pomorski, Chairman; Steve Herzog, Vice Chairman; Mark Toth, Member; Ed Porter, Member; Charles Kilgore Member; Denise Miller, Township Secretary; Rosemary Moore, Township Treasurer; Bob McClintock, Township Solicitor.

APPROVAL OF MINUTES:

Chester County Council of Government ("COG") – "COG" President Terry Bruno invited the entire Board and staff to an open house in March. Ms. Bruno also explained that the premise of the "COG" is to save money, help each other, and share services. Ms. Bruno also presented certificates of appreciation to current members Chris Amentas and Joe Pomorski.

Mr. Porter stated that he has concerns with accountability with sharing equipment, and not getting paid for providing services. Ms. Bruno replied that when equipment is shared it is definitely accountable. Ms. Bruno also replied that you should cancel the agreement if you have a nonpaid debt, and it should also be part of the agreement.

Mr. Porter stated that he sees pros and problems with the "COG", a problem being that it is almost like a form of shadow government. Mr. Porter also stated that he has a big problem that the "COG" agreement states that they may or may not show their financial records. Ms. Bruno replied they are not at all another form of government.

Ms. Bruno ended her presentation by thanking the Board and inviting them to call her anytime.

Safety and Waterway Management Annual Dam Fee – Emergency Coordinator, Tony Sirna stated that he received a Dam Safety and Waterway Management Annual Dam Fee letter from the Pennsylvania Department of Environmental Protection. Mr. Sirna also stated that under Chapter 105 the township has to pay an \$800.00 annual registration fee, due by July 1, 2014. There is also a quarterly inspection of the dam and a required annual inspection report, with a cost of \$800.00. Mr. Sirna stated that the County does not think that the township will have to pay the operation of the maintenance of the dam \$6,500.00 permit. Mr. Porter asked Mr. Sirna the category of the dam. Mr. Sirna replied that the Brook Crossing Dam is a 3C dam. Mr. Porter also stated that there have been developments asking the municipality to take over their basins, and asked Mr. Sirna if the basins are being incorporated as well. Mr. Sirna replied "not at this point." Mr. McClintock replied that if the Board would consider taking on basins, they will be required to maintain them.

Mr. Porter asked Mr. Sirna if the County will be charging the operational fee. Mr. Sirna replied that the language is very ambiguous in Chapter 105, and the township will probably not be responsible

December 30, 2013 Board of Supervisors minutes – Mr. Pomorski made a motion to approve the December 30, 2013 Board of Supervisors minutes as presented. Mr. Kilgore seconded. Vote: Unanimous.

January 6, 2014 Reorganizational minutes – Mr. Pomorski made a motion to approve the January 6, 2014 reorganizational minutes as presented. Mr. Toth seconded. Mr. Herzog said that he was the supervisor that abstained to the election of vice chairman, on the second vote. Mr. Pomorski amended his motion to add Mr. Herzog's change. Mr. Toth seconded. Vote: Unanimous.

PUBLIC WORKS DEPARTMENT

December 2013 road and vehicle report – The December 2013 road and vehicle report was submitted for Board of Supervisor and resident review.

December 2013 recycling report – The December 2013 recycling report was submitted for Board of Supervisor and resident review.

Joe Gathercole added to the "as needed" snow plow list – Mr. Pomorski made a motion to add Joe Gathercole to the "as needed" snow plow list, for \$15.00 per hour. Mr. Toth seconded. Mr. Porter asked Mr. Barry Gathercole if Joe Gathercole has his CDL certification. Mr. Gathercole replied that Joe is driving the pickup truck because he is not CDL certified. Mr. Porter asked Mr. Gathercole how he calls in the "as needed" snow plowers. Mr. Gathercole replied that he goes down the list and sees who is available. Sharon Scott asked how Joe Gathercole is related to Mr. Gathercole. Mr. Gathercole replied that Joe is his youngest

brother. Mr. Gathercole also stated that Joe Prekup resigned as an "as needed" snow plower. Mr. Porter asked if this position was posted on the website. Mrs. Miller replied "no." Mr. Porter asked that in the future all positions be placed on the website. Mr. Gathercole stated that it is hard to find someone qualified to run a plow and know the township roads. Mr. Pomorski thanked Mr. Gathercole and his crew for their good work during the recent snow events. Mr. Gathercole replied that their main job is to keep the main roads clear and opened, and when they have an extra plower they can keep the developments opened. Mr. Pomorski called for a vote. Vote: Unanimous.

CITIZENS by REQUEST
No Citizens by Request.

SOLICITOR REPORT:
No report given.

LEGAL ISSUES:

Brook Crossing Basins – Mr. McClintock stated that he reviewed the deed of dedication for the open space where the Brook Crossing Development Corporation dedicated the open space to the township, and found that the legal description of the two basins, on the plans, were carved out of the open space that was dedicated to the township, therefore Brook Crossing Home Owners Association ("HOA") owns those basins. Mr. MaDonna clarified that he understands that the "HOA" owns the basins, they are asking for the township to take ownership of those basins. Mr. MaDonna stated that the basins were a poor design approved by the township, and they are taking water from Hidden Valley Estates, Branford Village, Brook Crossing, and coming down from the township road way. Mr. MaDonna also stated that the water wipes out the dam and inlet. Mr. Porter asked Mr. MaDonna if a fence would help with the debris. Mr. MaDonna replied that the debris is being dumped on the township park. Mr. Gathercole stated that Branford and Park and Recreations has signs saying "no grass clippings" along the wood line, however those signs are bent and need to be replaced. Mr. Porter suggested a compost site for the park.

Mr. Porter stated that he does not think the township should take the basins, because other developments will come in with the same request. Mr. Porter also stated that he is willing to look for a solution to this issue. Mr. Gathercole stated that he will set a walk through meeting with everyone, when it gets warmer.

Mr. McClintock asked if the Board would consider asking Chris Della Penna to inspect the upstream neighboring facilities, and see if they are working properly and being maintained properly. Mr. Porter asked Mr. McClintock what procedure does he recommend being done by Mr. Della Penna. Mr. McClintock replied that over the years there have been recorded maintenance agreements for the most recent developments where the township requires that the "HOA" report to the township.

Manchester Farms Development snow plowing – Mrs. Miller informed the Board that Eric Schrock asked to be on the agenda for the Township to snow plow Manchester Farms Development ("Manchester"). Mrs. Miller asked for guidance on how to proceed with "Manchester" during the next snow event, since Mr. Schrock is not in attendance. Mr. Porter stated that the township should contact outside contractors to see what the fair value would be for this development. Mr. Gathercole replied that it is approximately \$125.00 per hour, per truck. Mr. Porter stated that he would like a price in place and "Manchester" sign something stating that the price is agreed upon. Mr. McClintock replied that the financial security is to cover the cost of making improvements so if you draw on it, to cover snow plowing, you're drawing down the amount. Mr. McClintock also replied that there is not enough financial security left in Phase II to complete all the improvements, but if you combine Phase I and Phase II there is enough. If you're going to enter into an agreement for these services he recommends a separate contract for all the issues. Mr. Porter stated that, if the township continues to plow, he would like an agreement with "Manchester."

Mr. Porter stated that the salt purchased is specifically for roads that are dedicated. Mr. McClintock stated that generally speaking the way this is addressed is you would charge them the Liquid Fuels Fund ("LF") that would have been obtained by the township, if these were dedicated roads. Mr. Gathercole stated that "LF" is \$4,000.00 per mile. Mr. Porter asked Mrs. Moore what was previously billed to "Manchester." Mrs. Moore replied that the first time was \$75.00 for the truck, road foreman time at \$28.95 per hour, and four tons of salt at \$75.00 per ton, totaling \$403.95. Mr. Porter and Mr. Herzog stated that this fee is low and unrealistic. Mr. Porter stated that he would also like a waiver included, in the agreement. Mr. McClintock replied that there is an indemnification clause in there and they would also add the ability to put a municipal lien on their property, if they do not pay, and any lot still owned the township would be able to lien therefore also securing that the township gets paid, if not today, when they sell the lot. Mr. Toth asked Mr. McClintock what happens if "Manchester" does not agree to this. Mr. McClintock replied that the township could call the financial security.

The Board directed Mr. McClintock to call Mr. Schrock, and see how he would like to proceed.

Discussion on Lamb McErlane primary Solicitor –Mr. McClintock informed the Board that he welcomes the opportunity to be the primary solicitor for East Fallowfield Township. Mr. McClintock also stated that he can always get past history information from Mr. Pompo. Mr. Pomorski stated that he is confident with both Mr. McClintock and Mr. Pompo. Mr. Pomorski asked Mr. McClintock if the township is doubled billed when he confers with Mr. Pompo. Mr. McClintock replied that generally yes, but the idea is the more he is here, he will have less discussions with Mr. Pompo. Mr. McClintock also stated that it depends on the conversation. Mr. Porter asked Mr. McClintock how many municipalities he handles. Mr. McClintock replied that he is not currently a primary for any, but is a backup solicitor for approximately nine municipalities. The Board agreed to move forward with Mr. McClintock as the primary solicitor for East Fallowfield Township.

TREASURER'S REPORT:

December 31, 2013 Treasurer's report– Mrs. Moore presented the Board with the December 31, 2013 treasurer's report. Mrs. Moore informed the Board that all the 2013 expenses have been booked to 2013, however in 2014 more income will come in, specifically earned income in addition to trash revenue, and posted back into 2013. Mrs. Moore also stated that this is one of the reasons why the audit takes until further into 2014, because the deferred revenue comes in during the first three months of the new year. Mr. Herzog asked Mrs. Moore the projected amount that will be posted back to 2013. Mrs. Moore replied "maybe \$100,000.00." Mr. Herzog asked Mrs. Moore if the money still to come in for 2013 will cover the 2014 deficit, without having to pull from the Capital Projects Fund. Mrs. Moore replied "I hope so."

Mr. Herzog asked Mrs. Moore if she received the results of the police contract. Mrs. Moore replied "no." Mr. McClintock explained that in December counsel had a medical issue that delayed the contract. Sharon Scott asked the name of the counsel. Mr. Pomorski replied "Joe Chupein." Mr. Porter stated that it was last reported that the police contract was in the arbitrator's hands. Mr. McClintock replied that the arbitrator has everything in front of him but has not issued the determination yet. Mr. McClintock also replied that there is not a clock required for them to issue the determination, but he will find out the status and get back to the Board.

Mrs. Moore informed the Board that the Liquid Fuels Fund balance is currently \$44,500.00 with the next payment scheduled for March 1, 2014. Mr. Porter asked Mrs. Moore what she expects to receive. Mrs. Moore replied "approximately \$87,922.00" Mr. McClintock asked if this amount is after or before the Transportation Bill was passed, in November. Mrs. Moore replied that she received this number before November. Mr. McClintock stated that he will get Mrs. Moore more information on this Bill. Mr. Pomorski made a motion to approve the December 31, 2013 Treasurer's report as presented. Mr. Porter seconded. Sharon Scott made several comments on the treasurer's report. Mr. Toth abstained. Mr. Porter voted nae because he is worried about the budget. Mr. Pomorski, Mr. Herzog, and Mr. Kilgore voted yea. Vote: Passed.

December 2013 payment authorizations – Mr. Pomorski made a motion to approve the December 2013 payment authorizations as presented. Mr. Porter seconded. Mr. Porter nae. Mr. Pomorski, Mr. Herzog, Mr. Kilgore, and Mr. Toth voted yea. Vote passed.

Pennsylvania Municipal Retirement System Pension Plan Agreement ("PMRS") updates – Mrs. Moore presented the Board with the non-uniform and uniform "PMRS" contract template changes. The Board asked Mrs. Moore to put the information in an Excel format and present it at the next meeting.

Liquid Fuels Fund balance – This was discussed under the Treasurer's report.

POLICE DEPARTMENT:

December 2013 Police report – The December 2013 Police report was submitted for Board of Supervisor and resident review.

PARK AND RECREATION COMMISSION:

No reports submitted.

HISTORICAL COMMISSION:

November 6, 2013 minutes – The November 6, 2013 Historical Commission minutes were submitted for Board of Supervisor and resident review.

PLANNING COMMISSION:

Chairman Dennis Crook stated that the comprehensive plan public meeting is scheduled for February 24, 2014 at 7:00 PM, at the South Brandywine Middle School.

UNFINISHED BUSINESS:

No unfinished business presented.

NEW BUSINESS:

\$5,000.00 Delaware rain garden grant – Mrs. Miller asked the Board to approve herself and Tag Gathercole to move forward and apply for a \$5,000.00 rain garden grant from the Delaware Department of Natural Resources and Environmental Control, and work with the Brandywine Valley Association to obtain this grant. Mr. Pomorski made a motion to approve Denise Miller and Tag Gathercole, working with Brandywine Valley Association to obtain a \$5,000.00 Delaware rain garden grant. Mr. Porter seconded. Mr. Porter asked Mrs. Miller if there are any contingencies other than apply for the grant. Mrs. Miller replied that you just have to apply for the grant. Mrs. Miller also stated that they will need volunteers to do the planting. Vote: Unanimous.

Township cash policy – Mrs. Miller asked the Board to change the township cash policy from \$20.00 to \$35.00, one reason being that residents buy the extra trash bags and they are \$35.00. Mr. Pomorski made a motion to change the township office cash policy from no more than \$20.00 at one time to no more than \$35.00 at one time. Mr. Kilgore seconded. Vote: Unanimous.

Chester County inclement weather policy – Mrs. Miller asked the Board to enact a township office staff policy and follow Chester County's inclement weather opening/closing procedure. Mr. Pomorski made a motion to have the township office staff follow the Chester County inclement weather opening/closing procedure, with paid time. Mr. Toth seconded. Vote: Unanimous.

Resolution 2014-03 –The Zoning Hearing Board Members took an informal poll, via email, and the majority of the members preferred to appoint Dennis O'Neill as a member, to the 2014-2016 term, and Ellis Weiss, as an alternate member, for a 2014-2016 term. The Zoning Hearing Board therefore ask the Board of Supervisors to appoint both applicants.

Resolution 2014-03 - Mr. Pomorski made a motion to accept the Zoning Hearing Board's informal poll, and adopt Resolution 2014-03 appointing Ellis Weiss as a Zoning Hearing Board alternate member for the 2014-2016 term. Mr. Toth seconded. Mr. Porter asked for Mr. Weiss's background. Mrs. Miller replied that Mr. Weiss is a resident who wants to be involved in the township. Mrs. Miller also directed Mr. Porter to Mr. Weiss's resume in his Board packet. Sharon Scott commented on Dennis O'Neill's appointment and her applying for the planning commission and township office position. Mr. Kilgore abstained. Mr. Porter abstained because he does not have enough information to vote. Mr. McClintock informed Mr. Porter and Mr. Kilgore that his advice is that there needs to be a conflict of interest to abstain from a vote. Mr. Porter replied that he has information that the Coatesville School Board voted for abstentions because they did not have enough information. Mr. Pomorski, Mr. Toth, and Mr. Herzog voted yea. Vote passed.

Resolution 2014-04 – Mr. Pomorski made a motion to accept the Zoning Hearing Board's informal poll, and adopt Resolution 2014-04 appointing Dennis O'Neill as a Zoning Hearing Board member for the 2014-2016 term. Mr. Toth seconded. Vote: Unanimous.

Mr. Porter suggested enacting an employee evaluation procedure. The Board directed Mrs. Miller to add this to the February 11, 2014 workshop for further discussion. The Board also directed Mrs. Miller to present surrounding municipalities and the township employee evaluation form at the next workshop meeting.

Mr. Porter reminded the Board that Wes Maughan resigned as an elected auditor. Mr. Porter explained the appointment process and stated that Jim Sisk received a vote but was not appointed, and later applied for the vacant position. The Board directed Mrs. Miller to see if Mr. Sisk is still interested.

Mr. Porter asked Mr. Gathercole if former Manager, Jill Bukata was responsible for putting the 2011 gasoline out to bid. Mr. Gathercole replied that Jill Bukata didn't know that the township had to put this out to bid. Mr. Gathercole also replied that he received three different gasoline quotes. Mr. Porter also asked Mr. Gathercole what he is buying for a large amount, this year. Mr. Gathercole replied a truck to replace the 1997 Louisville.

PUBLIC PARTICIPATION:

Sharon Scott presented the January 7, 2014 and January 28, 2014 elected auditors minutes. Mrs. Scott asked Mrs. Miller to advertise for the February elected auditors meetings where they will review all the audit documentation. Mrs. Miller asked for direction from the Board because this is not the job of the elected auditors. Mrs. Scott stated that she will then make a right to know request for this information.

ADJOURNMENT: Mr. Pomorski made a motion to adjourn the Board of Supervisors meeting at 9:43 PM. Mr. Toth seconded. Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary