

## EAST FALLOWFIELD TOWNSHIP

BOARD OF SUPERVISORS MEETING  
September 23, 2014 Approved minutes  
6:35 PM

### Members Present

Joe Pomorski, Chairman  
Steve Herzog, Vice Chairman  
Charles Kilgore, Member  
Mark Toth, Member  
Ed Porter, Member

### Township Staff Present

Lisa Valaitis, Township Secretary  
Rosemary Moore, Township Treasurer

### Township Solicitor

Vince Pompo

#### 1. CALL TO ORDER, SILENT MEDITATION AND PLEDGE OF ALLEGIANCE.

Chairman Joe Pomorski called the meeting to order at 6:35 pm. Steve Herzog seconded.

#### 2. Discussion

A. EXECUTIVE SESSIONS: The public was informed that there was an Executive Session held at 6:27 pm on September 23<sup>rd</sup> regarding personnel issues.

#### B. APPROVAL OF MINUTES

##### 1) August 12, 2014 Board of Supervisors special workshop minutes

MOTION: Joe Pomorski made a motion to approve the August 12, 2014 Board of Supervisors special workshop minutes as presented. Steve Herzog seconded.

VOTE PASSED with correction: 4-0 (Mark Toth abstained)

##### 2) August 26, 2014 Board of Supervisors minutes

MOTION: Joe Pomorski made a motion to approve the August 26, 2014 Board of Supervisors minutes as presented. Steve Herzog seconded.

VOTE PASSED with correction: 4-1 (Joe Pomorski, Steve Herzog, Charles Kilgore and Mark Toth voted yea. Ed Porter voted nae.)

#### C. PUBLIC WORKS

1) The August 2014 Road Department monthly report was submitted for Board and resident review.

2) Mortonville Road – Patrick McNamara, P.E. Director, Geotechnical Investigations Division – Joe Pomorski stated that the Board wants to get a better understanding of Mortonville Road's condition and if the road can be safely reopened one way. Mr. McNamara stated that they did a subsurface investigation which consisted of ten soil borings where the road condition allowed it. The road has loose fill soils underneath the roadway which are being impacted by two problems. The first problem is that the creek, being so close to the road, is scouring out the hillside. This is undermining the road and causing loss of asphalt. The second problem is that along the hillside away from the creek, there is massive drainage flowing down to the road. The stormwater is running over and under the pavement causing water to get into the loose soils underneath the paving. This is piping some of the fines into the creek. To fix the road properly in the area of washout, the road needs a new wall to establish a back fill to create road. In addition, stormwater management controls are needed to pipe the stormwater into inlets and ultimately into the creek. Mr. McNamara could not give a

cost estimate for repairs. Mr. McNamara did not recommend opening Mortonville Road one way. He said that although the road may be stable right now, the loose soil underneath the road could give way after another creek overflow. There was a discussion about the best way to repair Mortonville Road. There was also a discussion about various wall designs that could be installed to fix the stormwater problems.

ACTION: Mr. McNamara recommended the Board get a civil engineer with roadway experience to get cost estimates and a plan to fix the road.

#### D. CITIZENS BY REQUEST

- 1) Charlie Carter – Manchester Farms – Charlie Carter asked if the Board had received any response from Dewey. Vince Pompo stated that he has heard from the attorney representing Dewey. Dewey's attorney said they take issue with the letter that was sent to them on August 21<sup>st</sup>. He said allegedly the Phase I project is deemed approved because the Township failed to send a certain letter. Mr. Pompo said that they could sue the Township if they feel Phase I is approved. Mr. Pompo stated that he told their attorney that the Township is concerned about the roads being finished in Phase II. Then Dewey's lawyer raised the Permanent Extension Act. Mr. Pompo countered with citation of the provisions in the statute that state the Township can continue to enforce conditions of approval (includes snow removal for which the Township needs to be compensated for).

ACTION: If the Township does not hear from Dewey, they will be put on next month's Board of Supervisors meeting agenda for the Board to give direction on how to proceed. The next step the Board could take is to send notice to the bank demanding turnover of security.

#### E. FIRE COMMITTEE

- 1) Westwood Fire Company's Battalion Chief John Sly gave an update on the Fire Committee. The Fire Committee did not have a chance to meet before the Board of Supervisors meeting. The next meeting will take place at the Modena Fire Company, where Mr. Toth and Mr. Herzog will take a tour with Chief Frank Dowlin. Battalion Chief Sly mentioned it was budget season and said any money that the Township can give to the fire companies is greatly appreciated. He said that even providing fuel to the fire vehicles would be helpful.

#### F. SOLICITOR REPORT

- 1) Open Space Design Option Ordinance – Vince Pompo stated that a question arose at last month's meeting about an ordinance that was enacted ten years ago which repealed the Open Space Design Option Ordinance. This ordinance (Ordinance 2004-06) was adopted on August 25, 2004. It recites that conditional use approvals were granted for developments such as Branford Village and Brinton Station. The Planning Commission was under the impression that these provisions were not resulting in designs that further the goals and objectives of planning in the Township. Upon the Planning Commission's recommendation, the Board at the time, removed three sections from this ordinance and repealed the entire Article 1300. Then the Board commissioned a legal firm to draft new provisions on open space design. This resulted in a new ordinance which was enacted three years later. This is the present Open Space Design Option Ordinance.

Dennis Crook explained that in going through the planning process, the Planning Commission looked at the open space design to see how small a lot could be in the Township. The Township Engineer and Zoning Officer said there could still potentially be 4,000 square foot lots in East Fallowfield. There is a question about which open space design ordinance is currently on the Township books.

ACTION: Steve Herzog requested that Lisa Valaitis or Rosemary Moore verify that the relevant ordinances are in the Township Ordinance Books.

- 2) Collective Bargaining Agreement – Police – Vince Pompo said the Act 111 Interest Arbitration Award was concluded in May 2014. This becomes the basis for the new contract. Vince Pompo explained that the provisions in the award need to be taken and incorporated into the expired CBA to produce a document that

reflects changes to the previous CBA as required by the award. Vince Pompo said that the terms need to be incorporated into the existing agreement. One option is to have the Board authorize Vince to put this document together and forward it to the union representative to review. The second option is that the Township could ask the union representative to draft the document and Vince Pompo would review it.

MOTION: Joe Pomorski made a motion to authorized Lamb McErlane to draft the final document for the Collective Bargaining Agreement for the police contract. Mark Toth seconded.

DISCUSSION: There was a discussion about the costs of having Vince Pompo prepare the document versus having the Police Department's legal counsel complete the document. Vince Pompo said that the cost for him to prepare the document would be the hourly rate for a few hours of work. This would be at least \$500.

Ed Porter asked if it would be worth it to send an email to the Police Association's attorney asking if he is willing to complete the new agreement. The Board agreed this should be done.

Joe Pomorski withdrew the motion.

Joe Pomorski will reach out to the Police Association's attorney to determine which firm will draft the new agreement.

MOTION: Joe Pomorski made a motion that in the event that the Association's representation does not wish to draft the new agreement, we will use Lamb McErlane to draft the agreement. Charles Kilgore seconded.

VOTE PASSED: 5-0

## G. LEGAL ISSUES

### 1) Public hearing consideration of Act 167 Stormwater Ordinance

MOTION: Joe Pomorski made a motion to adopt Ordinance 2014-02. Mark Toth seconded.

DISCUSSION: Sharon Scott requested each Supervisor on the Board state why they are approving the Stormwater Ordinance. Ms. Scott made comments stating she is against Ordinance 2014-02. Dennis Crook said the Planning Commission has been looking at water and sewer in the Township. They found that the Township has areas of high nitrates. Mr. Crook said he found a program in Carlisle, PA that offered free water testing and he had a sample of his water tested. The sample result showed 2.0% nitrates in his well water. Nine years ago his water tested at 0.7% nitrates. The EPA standard for safe water is 1.0%. He had installed stormwater management systems on his property. He believes this is taking the stormwater and burying it deeper in the ground and getting into the drinking water. He said he feels adopting Act 167 Stormwater Ordinance will make the problem worse. Jan Bowers, Executive Director of Chester County Water Resources Authority and resident of East Fallowfield Township, stated that the ordinance will protect the supply of groundwater. She said the nitrate levels are elevated in this area to begin with. The causes of elevated nitrates are septic systems and old agricultural practices before land was converted to residential. The ordinance is written to use design standards to protect water quality and recharge in the ground water to feed wells. Jan Bowers said the ordinance will have an impact on developers. Buddy Rhoades asked if anyone monitors farms and ranches. Vince Pompo stated that agriculture is exempt based on the requirement to be in compliance with Chapter 102 – the laws and regulations that require agriculture operators to put certain practices in place to control run off from livestock and crops. Dawn Crawford asked if the Township will have someone certified or trained to enforce this ordinance. John Davis asked if the ordinance would allow the Township could go on to private property and regrade it if there is a stormwater problem. Vince Pompo said that the ordinance will require an upstream developer to study how stormwater will impact downstream properties. The ordinance will help protect property owners from developments causing stormwater problems.

VOTE PASSED: 3-2 (Joe Pomorski, Steve Herzog and Mark Toth voted yea. Charles Kilgore and Ed Porter voted nae.) Ed Porter stated why he voted nae per Sharon Scott's request.

2) Signing of Writs of Execution - Trash Bills

MOTION: Joe Pomorski made a motion to sign the Writs of Execution as presented. Steve Herzog seconded.

QUESTIONS AND COMMENTS: Sharon Scott asked if the people have been notified more than twice. Vince Pompo and Joe Pomorski replied that the people were notified more than twice.

VOTE PASSED: 5-0

- 3) Benecon Premium Only Plan Adoption - There was a discussion about the Premium Only Plan Description and Adoption Agreement. Vince Pompo explained that this is an option that enables employees to have their contribution to healthcare deducted pre-tax from their paychecks. This also allows a cash option to be paid to an employee who waives healthcare coverage. Rosemary Moore said that Benecon's Compliance Specialist contacted her stating that we need several forms to be completed for the Township to be in compliance. Everything needs to be documented. It is paperwork to keep up to date rather than new coverage. Vince Pompo recommends the Township sets up a practice that whenever employee plans are changed or altered, that the representatives of the Police and Public Works unions are contacted and consulted. This is the proper procedure with a collective bargaining agreement.

ACTION: Vince Pompo will speak to the Benecon representative to get more information before the Board votes to approve the requested resolution. This will also be shared with the representatives of the collective bargaining agreements.

- 4) Manchester Farms – No one from Dewey was present.

- 5) Teamsters – Steve Herzog asked about the status of the Teamsters. Vince Pompo said that an agreement negotiated. Ed Porter suggested sitting down and talking to the Public Works Department to determine what they want. There was a discussion about how to proceed with negotiations and meeting with Public Works. Proposed wage increases need to be negotiated for budget purposes.

ACTION: The Township needs legal representation. Vince Pompo made legal counsel firm suggestions. Advice from legal counsel would help map out negotiations. The Board will invite several legal counsel firms to the next Board meeting.

H. PLANNING COMMISSION

- 1) The Planning Commission did not meet in September. Therefore Dennis Crook had nothing new to report.

I. UNFINISHED BUSINESS

- 1) Abstract for grant application – Siti Crook said that the National Science Foundation administrator has done us a favor by having us write the shorter abstract rather than complete the entire application for the grant to determine if we fit the criteria. She will forward the Board the final one page that she sent to the National Science Foundation. If the administrator feels we fit the parameters, they will request she write the full grant. The full grant is due November 15, 2014. She will send the Board an email if they write the full grant.

J. TREASURER'S REPORT

- 1) August 31, 2014 Treasurer's report – Rosemary Moore presented the Board with the August 31, 2014 Treasurer's report.

MOTION: Joe Pomorski made a motion to approve the August 31, 2014 Treasurer's report as presented. Ed Porter seconded.

QUESTIONS AND COMMENTS: Sharon Scott asked a question about the police contract negotiations and legal fees. Buddy Rhoades commented on police legal expenses. He also made comments about the budget process. Ed Porter asked if Tag had explained why mowing expense was up. Rosemary Moore stated that mowing expense is for repairs and maintenance for mowers. Ed Porter also questioned the \$90,000 machinery expense that wasn't spent. Rosemary Moore said she would clarify with Tag Gathercole on what he had planned to purchase. Buddy Rhoades asked what the Liquid Fuels balance is. Rosemary Moore responded that there is excess revenue of \$156,186.

VOTE PASSED: 5-0

2) August 2014 payment authorizations

MOTION: Joe Pomorski made a motion to approve the August 2014 payment authorizations as presented. Steve Herzog seconded.

QUESTIONS AND COMMENTS: Sharon Scott asked about the Lucky Sign Shop invoice under Park and Recreation and about Ray Ott's invoices. There was a discussion about the Comprehensive Plan. Siti Crook also made comments about the Comprehensive Plan.

VOTE PASSED: 4-1 (Joe Pomorski, Steve Herzog, Charles Kilgore and Mark Toth voted yea. Ed Porter voted nae.)

3) Pennsylvania Municipal Retirement System Pension Plan Agreement – Rosemary Moore explained that PMRS sent the Township a checklist that they need completed. PMRS needs specifics on our uniform and non-uniform plans. For the non-uniform employees, the plan options would need to agree with the Employee Handbook. For the uniform employees, all options will need to go through the collective bargaining unit.

ACTION: Rosemary Moore and Vince Pompo will identify the choices PMRS is requesting and go through the collective bargaining unit. Anything specified in the Arbitrator's Letter can be specified for PMRS. Vince Pompo stated that PMRS will generate another plan document and an ordinance to pass once the Township has specified answers on the checklist.

4) Approval of Paylocity as the new payroll provider – Converting to Paylocity as payroll provider offers significant savings to the Township after the initial start-up costs. There are time savings involved as well. Rosemary Moore spoke about the choices of a bar coded swipe card or a hand scanner. Rosemary Moore has an email stating the contract costs are guaranteed for two years. Steve Herzog requested a revised quote. Rosemary Moore said Paylocity can get this implemented before year end.

MOTION: Joe Pomorski made a motion to approve Paylocity as our new payroll provider contingent upon them giving us a two year agreement. Charles Kilgore seconded.

There was a discussion about which system to use. There was a discussion about why the hand scanner would not work for the police and whether the Collective Bargaining Agreement impacts the choice.

AMMENDED MOTION: Joe Pomorski made a motion to approve Paylocity as our new payroll provider with the bar code swipe cards. Steve Herzog seconded.

DISCUSSION: Sharon Scott asked what the significant savings are. Rosemary Moore said it's a saving of \$3,000-\$4,000 a year after the first year with a one-time implementation fee of \$2,000. Dawn Crawford spoke about her company's payroll system procedures and cost. There was a discussion about payroll systems.

VOTE PASSED: 5-0

Per Ed Porter's request, Rosemary Moore will look into Workman's Compensation Insurance for better pricing options. Rosemary Moore reported she consolidated the Verizon bills as much as possible.

#### K. POLICE REPORT

- 1) August 2014 Police report submitted for Board and resident review.
- 2) Joe Pomorski commended the East Fallowfield Police Department for their response time to the East Fallowfield Elementary School when the school called 911 two separate times about possible gunshots fired. Their response time was 3 minutes. In the first case, the noise was workers banging a tool on the cell tower behind the Township building. In the second case, it is believed to have been hunters.

#### L. PARK AND RECREATION COMMITTEE

- 1) Jan Bowers said that Michael McClintock is working on a Facebook page for the Park and Recreation Committee. Jan Bowers also said that the Park and Recreation Committee appreciates that the Township is advertising on the website that their committee needs members.

#### M. HISTORICAL COMMISSION

- 1) The August 6, 2014 Historical Commission meeting minutes submitted for Board and resident review.
- 2) 190 Mink Hollow Road – letter submitted for Board review.
- 3) 2960 Strasburg Road – letter submitted for Board review.
- 4) Pictures on Township website – Buddy Rhoades stated that he has been asking for seven months to have historical pictures added to the Township website. There was a discussion about putting historical pictures on the website. There are about 15 pictures that the Historical Commission would like to put on the website. The Board gave approval to have the pictures added to website. The Board asked Mr. Rhoades to email Joe McCormick, Historical Commission Chairman, instructing him to contact Sue Haldeman about having the pictures put on the website.
- 5) Frog Hollow Road Covered Bridge – Buddy Rhoades asked for repairs to the road around the covered bridge because the road is breaking off.

#### N. PUBLIC PARTICIPATION

- 1) Dawn Crawford – Dawn Crawford asked for information on the July 21<sup>st</sup> Planning Commission meeting in which Mr. Sisk requested changes to the Comprehensive Plan to accommodate the Hope Community. The Hope Community is an affordable housing community. There was a discussion about the Hope Community. Ed Porter said that Ray Ott is asking the Township for feedback on the Hope Community. Ray Ott has been saying we don't have the proper zoning. The Planning Commission has responded saying the Township has enough development. Ed Porter said there is a Comprehensive Plan draft with three areas of high density on it. Ms. Crawford said the people in her neighborhood are nervous because they have seen work being done on the old Prang's junkyard property which is the proposed site of the Hope Community. Vince Pompo explained that a Township is required to have a mix of zoning types. He reported that East Fallowfield has a good deal of land that is protected by conservation easements. This is not considered available for development. Ms. Crawford said she thinks Chester County is pushing to put the affordable housing in East Fallowfield. Ed Porter explained that the Comprehensive Plan is not set in stone. The Board can make a change at any time. The Board recommended that Dawn Crawford come to the next Comprehensive Plan meeting to get more information.

- 2) Buddy Rhoades – Mr. Rhoades stated that he'd like the Public Works Department to be doing more road work. He feels that our Public Works Department spends a lot of time mowing grass and should spend more time working on our roads. He said there are a lot of development roads that need work done.
- 3) Jan Bowers – Jan Bowers requested the Board of Supervisors send a thank you letter to Mr. Bob Struble, from Brandywine Valley Association, for all the work he did putting in a rain garden in front of the Township building. He fronted the money for the Township for the rain garden. The rain garden is collecting water runoff from the Township building and will improve the stormwater problem on Strasburg Road.
- 4) Sharon Scott – Sharon Scott asked if builder's escrow is listed on the Treasurer's report. Rosemary Moore said it is not on the report. Ms. Scott said she wants to see the balance every month. Rosemary Moore said she does not have access to builder's escrow balances. The Township does not keep record of the builder escrow balances and this money is not in a Township bank account. Vince Pompo recommended Ms. Scott submit a Right to Know request if she'd like this information.

### 3. ADJOURNMENT

MOTION: Joe Pomorski made a motion to adjourn the Board of Supervisors meeting at 10:22 pm. Steve Herzog seconded. VOTE: 5-0

Respectfully Submitted,

Lisa Valaitis,  
Township Secretary