

**East Fallowfield Township  
Planning Commission Meeting  
Approved June 4, 2018 minutes  
6:35 p.m.**

**Attendees:**

Dennis Crook, Chairman  
John Nielsen, Vice Chairman  
Michael Domboski,  
John Schwab  
Joe Perzan  
Wilson Lambert, Alternate Member & Board of Supervisors  
Katja DiRado, Board of Supervisors  
Scott Swichar, Township Manager  
Mike Crotty, Township Solicitor

**Not Present:**

Stephanie Saxton  
Sue Monaghan

Dennis Crook called the meeting to order at 6:35 pm.

**Discussion on Order of Agenda Items.**

There was a discussion about the order of agenda items for the meeting. The Planning Commission members decided to proceed with the meeting in the order below.

**Approval of May 7, 2018 Planning Commission Meeting Minutes.**

MOTION: Dennis Crook made a motion to approve the May 7, 2018 Planning Commission meeting minutes as presented. John Schwab seconded.

**QUESTIONS AND COMMENTS:**

1. John Schwab asked about the sentence "The Ordinance was put in 10 years ago." on page 2, second sentence, under the section entitled "East Fallowfield Township Manager". Solicitor Crotty stated there is an ordinance that establishes the position of Township Manager.

VOTE: 4-0 (Wilson Lambert abstained.)

**Introduction of Township Manager.**

Dennis Crook introduced Scott Swichar, Township Manager to the Planning Commission members.

## **Review of Township Ordinances – Chester County Review Letter.**

Solicitor Crotty reviewed the Chester County Review Letter. The Township sent two out of the three ordinance drafts to the County Planning Commission. The ordinance amendments were regarding the no impact home based businesses and day care center regulations as well as the shooting range regulations. The blighted property ordinance was not submitted to the Chester County Planning Commission because the County only reviews zoning ordinances and subdivision and land development ordinances. The Blighted Property ordinance does not fall under either category. No further changes have been made to the Blighted Property Ordinance since the Planning Commission recommended approval of the ordinance to the Board of Supervisors. Solicitor Crotty stated he anticipates presenting the Blighted Property Ordinance for advertisement to the Board of Supervisors at an upcoming meeting.

1. **Chester County Planning Commission Review Letter for Proposed Day Care Center Ordinance** - Solicitor Crotty discussed the comments in the Chester County Planning Commission review letter for day care center regulations:

- The Township should also look at updating the table of uses in the back of the ordinances. Solicitor Crotty stated this will be updated. Mr. Crook commented that the Planning Commission wanted the day care center to be allowed in both the Office-Industrial and Multi-Use Zoning Districts. They were not in favor of allowing day care centers in the Village Commercial Zoning District. Solicitor Crotty stated that currently, day care centers are allowed in Village Commercial in the Township Code and it does fit with the current definition of Village Commercial. Solicitor Crotty stated in the Table of Uses, Section 1002 – he will have day care center stricken from the Village Commercial Zoning District. Mr. Crook asked if there are specific boundaries for the Village Commercial Zoning Districts. Solicitor Crotty stated that Village Commercial is defined on the Township Zoning Map.

2. **Chester County Planning Commission Review Letter for Proposed Shooting Range Ordinance** - Solicitor Crotty discussed the comments in the Chester County Planning Commission review letter for shooting ranges (four recommendations):

- Under Section 27-1714.1.b, a 50 foot setback from a shooting range is required. The Chester County Planning Commission recommends the Township should consider a larger setback from the shooting range's target area. Solicitor Crotty recommended maintaining the 50-foot setback in the current draft. The Planning Commission members had no objection to keeping the setback of 50-feet.
- Section 27-1714.1.c should include the specific appendix designation for the Range Design Criteria established by the U.S. Department of Energy. Solicitor Crotty stated this will be done so they will ensure it's clear in the ordinance.
- Section 27-1714.2.b recommends reducing the required parking to lower than the current 500 square feet for commercial shooting ranges (indoor and outdoor). Solicitor Crotty stated this recommendation could be followed. The Planning Commission wished to maintain the current 500 square feet parking requirement.
- The Township should determine whether modified hours should be provided for outdoor shooting on Sundays or specific holidays. A discussion ensued. The Planning Commission decided not to make any changes to the ordinance.

### Review of Township Ordinances.

1. **Day Care Centers and Day Care Homes Ordinance** – Solicitor Crotty will present this ordinance to the Board of Supervisors for consideration for advertisement at an upcoming meeting.
2. **Shooting Range Ordinance** – Solicitor Crotty will present this ordinance to the Board of Supervisors for consideration for advertisement at an upcoming meeting.
3. **Blighted Properties Ordinance** - Solicitor Crotty stated this ordinance will be presented to the Board of Supervisors for consideration for advertisement at an upcoming meeting. Dennis Crook stated this will take care of the extremely dilapidated properties in the Township. John Schwab asked if they are changing the grass mowing requirements to be 100 feet around buildings and 50 feet from driveways which is under Section 3, Exterior Property Maintenance, Part A – Grass and Weeds. Mr. Schwab asked whether the requirement should be 50 feet or 100 feet from a driveway. There was a discussion about whether to require grass to be cut to 50 feet or 100 feet from a driveway. Solicitor Crotty suggested putting a carve-out clause for agricultural and pasture areas in this specific section and reduce the requirement to 50 feet. This is basically an exception for pastures and agricultural properties. There was a discussion about the vehicle section. The ordinance lists vehicle violations that pose a safety issue. Solicitor Crotty stated the vehicle section breakdown follows what the courts have come out with in responding to these types of provisions.
4. **Flag Pole Provisions Ordinance Amendment** – Solicitor Crotty presented a proposed ordinance amendment regarding flag pole provisions. Solicitor Crotty stated the existing language allows flag poles to be projections into yard areas except they have to be no closer than the setbacks required for accessory buildings. The township Code doesn't allow accessory buildings in front yards so therefore flag poles aren't allowed in front yards under the current wording. He said this is clearly not the intent. Solicitor Crotty suggested flagpoles may be permitted in front and side yard areas, providing the setback is the same length of the flag pole.
5. **Billboard and Electronic Signs Ordinance** – Solicitor Crotty distributed provisions collected from other municipalities a few months ago for the Planning Commission to review. The Pennsylvania Supreme Court has decreed that if a Township Ordinances don't regulate and permit signs and billboards in the Township, then someone can challenge that the Township Ordinance is exclusionary and be granted permission to put up a billboard. By allowing billboards on at least one property in the Township, we are providing for billboards and not being exclusionary. Solicitor Crotty also discussed allowing small electronic signs. He recommended including the following in a sign ordinance: limiting where electronic signs are permitted; limiting how often an electronic sign changes with regulations such as no fading, flashing, modulating, scrolling or moving lights; change interval limitation; transition interval specification; hours of operation specification and Illumination specification. They also need to regulate smaller ground electronic message signs that businesses might want to put up. Joe Perzan asked if there are provisions for actions the Township can take if someone puts up a sign that does not meet the ordinance criteria. Solicitor Crotty said the person can be cited for violation and taken to court to have the

sign removed. There was a discussion about the Township building having an electronic sign. Supervisor Katja DiRado stated residents have told her they can't read the current sign or don't know what the abbreviations stand for on the sign. Supervisor DiRado said the goal of an electronic Township sign is to communicate with the community and get more residents involved. Supervisor Wilson Lambert also spoke in favor of an electronic sign. Various electronic municipal signs were discussed. Township Manager Swichar also spoke about potential grant opportunities to help cover the cost of an electronic sign for the Township. John Nielsen asked if the ordinance differentiates between a billboard and a small business owner's sign. Solicitor Crotty stated a billboard is considered off-site advertising. Solicitor Crotty recommended consistent regulations between both signs and billboards. He stated the courts like consistency. The Planning Commission will review and discuss the electronic signs and billboards ordinance further at a future meeting.

### **Review of Proposed New Ordinances.**

1. **Dumpster and POD Ordinance** – Solicitor Crotty made comments on the dumpster/POD draft ordinance. He recommended removing the language “non-licensed” and “stand alone” because the language is too limiting. Dennis Crook commented that the Planning Commission's goal is to provide regulation for dumpsters, temporary storage units, and shipping containers. Solicitor Crotty asked for specifications from the Planning Commission members. Michael Domboski recommended the ordinance require a dumpster or POD be placed on a driveway or impervious surface. Joe Perzan commented on requiring a permit allowing a dumpster or POD to be limited to a specific time period. Solicitor Crotty will work on expanding the dumpster and POD Ordinance.
2. **Rental Property Permitting** – Solicitor Crotty discussed rental property ordinances and regulating rental properties. He stated there are three sides to rental properties. The Township regulating rental properties to ensure that it is not a nuisance for the neighborhood. The main issue encountered are landowners that aren't keeping up on property maintenance because they don't live on the property or don't live in the Township. Solicitor Crotty recommended creating an ordinance scheme differentiating between those who own rental properties and live in the Township and those that do not live in the Township. The reason this is an issue is because a rental property is more likely to become run down if the owner is not living in the local community. The other two sides of rental properties are landlords and tenants. The Township does not want to get involved with landlord and tenant disputes or fights. They typically do not put anything in a rental property ordinance about tenant behaviors. Occupancy limits can be addressed for safety purposes. There was a discussion about inspections of rental properties. Solicitor Crotty stated inspection is addressed under the International Property Maintenance Code provisions, particularly that the occupancy limitations, are met. The main concern is safety. Supervisor Lambert asked for clarification of Section 8, Certificate of Inspection. Solicitor Crotty stated inspection of rental properties by the Township is required every two years. Failure of inspection will result in suspension of the Residential Rental Unit License. The purpose of the Rental Property Ordinance is safety and welfare of residents. Solicitor Crotty stated the Township would not keep track of who the tenants of rental properties are. Joe Prezan asked if the International Property Code is available online. Solicitor Crotty discussed the International Property Code. He stated the Township has adopted the

International Property Maintenance Code 2003 version. The 2003 version of the International Property Code is available online. Occupancy limits were discussed. Supervisor Lambert asked about who is responsible for trash payments for rental properties. Solicitor Crotty stated the property owner is responsible for trash payments. Township Manager Swichar stated the Township code states that owners with three or more rental units are responsible for providing their own trash service.

**3. Flag Pole Ordinance Amendment.**

MOTION: Dennis Crook made a motion to proceed with the Section 27-1803 projections in the required yards and adding to it, flag poles may be permitted within front and side yard areas provided they are set back a distance equivalent of the height of the flag pole. John Nielsen seconded.

VOTE: 6-0

**East Fallowfield Township Park Grant Application.**

Dennis Crook announced that Township Manager Swichar submitted a grant application. Township Manager Swichar stated he submitted the DCED Greenways, Trails, and Recreation Program Grant last week. The grant is for permanent restrooms, along with an online disposal system and a water well and a tot lot for the East Fallowfield Township Park. The application request was for \$250,000. The grant is a 15% match. Township Manager Swichar stated the public restroom was in the Park Master Plan Phase 1.

**Official Map Update.**

Dennis Crook announced that the next Planning Commission meeting is June 18, 2018. Mr. Crook also reported that he met with David Porter from Herbert MacCombie's office to discuss the locations of sewer pump stations in the Township. Mr. Crook stated he then relayed this information to Ray Ott, Consultant, to identify the location of potential future pump stations on the Official Map. Specific pump station locations were discussed. Because some of the future pump station locations are on private properties, Joe Perzan asked if identifying this on the Official Map will have any adverse effect on those private properties. Dennis Crook stated it might have a slightly adverse effect. However, identifying future pump station locations gives the Township leverage in negotiating if a particular property identified as a future pump station location goes up for sale or a developer would like to subdivide the property. John Schwab asked Solicitor Crotty if identifying a property as a future septic pump station will devalue the assessed property value. Solicitor Crotty stated that a property's assessed value could potentially decrease in this case. Mr. Schwab said the Township is also required to look at growth requirements and future needs. Township Manager Swichar asked Mr. Crook if he had talked to any of the property owners whose properties were identified as future pump station locations. Mr. Crook stated he has not spoken to property owners. He wanted to identify the properties first. There was a discussion about the advantages and disadvantages to identifying future pump stations on the Official Map. Specific properties were discussed as well. Solicitor Crotty said that the DEP would require the Township to extend the public sewage area and the Township would need to make it work. Likely this would be done through PA American Water Company. Dennis Crook discussed a contract between the Township and the PA American Water Company. Mr. Crook stated it was his understanding that not all of the Township north of Strasburg Road is franchised. Solicitor Crotty briefly explained how PA

American Water Company is regulated by the Pennsylvania Public Utility Commission. Dennis Crook discussed revitalization of parts of the Township. Solicitor Crotty explained that the DEP requires anyone that is within 150 feet of a sewer line to hook up. Options for a municipality to handle an owner that refuses to hook up: lien the property and start charging them as if they are connected and hooked up, connection is installed, and the owner is charged. Solicitor Crotty explained the Act 537 Plan and the options for addressing areas of your municipality that have failing septic systems. The first option is to ignore the problem and explain it to DEP. However, DEP will not permit that. The second option is to implement an on-lot septic management system. The third option is to install public sewer. Solicitor Crotty explained how the different Act 537 Plan options can impact future density in a municipality. Supervisor DiRado asked if there are grant programs available to help older people with the cost of hooking up to public sewer. Mr. Crook discussed the Penn State Extension Program that offered well water quality testing a few years ago. PA American Water Company would give a credit to hook new customers up. Another option is for the Township to pay for the public sewer hookup and place a lien on the property. This is essentially a loan for the property owner. Mr. Crook said there is a state grant program for the elderly to help with the cost of hookups (both public water and sewer).

**Variances vs. Special Exceptions – Use Variance vs. Dimensional Use Variance – Martin vs. Heidelberg Township May 17, 2018.**

Solicitor Crotty discussed the Martin vs. Heidelberg Township May 17, 2018 case. He stated that a decision on this case came out last month. This case sheds a little light on variance issues. Solicitor Crotty explained a use variance and a dimensional variance. A use variance is for a use that is not permitted in a zoning district. Dimensional variance is for a use that is permitted in the zoning district but you don't meet the setbacks. The case addresses a use variance versus dimensional use variance. Solicitor Crotty briefly discussed the Zoning Hearing Board appeal process. He also discussed the definitions of a special exception, variance, dimensional variance and use variance.

**East Fallowfield Township Owned Properties.**

1. 17 Newlinville Road 47-5A-14 / 0.03 acres.
2. 19 Newlinville Road 47-5A-15 / 0.03 acres.
3. 1642 Goosetown Road 47-5-95 / 33.7 acres.
4. Brinton Station Open Space 47-2-20 / 30.64 acres.

Dennis Crook discussed researching the Township owned properties and the specific details regarding why these properties were given to the Township. Solicitor Crotty stated that if a property is dedicated to the Township for open space, then the Township can't use that property for any other use. If there was grant money used to purchase a property, there are possible restrictions. The restrictions could be in a deed or a separate covenant or easement.

At 9:01 pm, Solicitor Crotty left the meeting.

Dennis Crook asked for volunteers to research the Township owned properties and look up deeds for the properties. Michael Domboski volunteered.

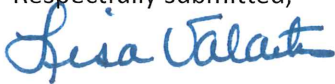
**New Business.**

1. **SALDO Punch List / Editorial and Legal Analysis of Township Code** – Joe Perzan discussed doing a SALDO Punch List. Mr. Crook stated he felt an editorial and legal analysis of the Township Code would address most of the Code issues and inconsistencies. Mr. Crook said he previously discussed this with Township Manager Swichar. Township Manager Swichar stated he is not a fan of General Code, which is the current company managing the Township's Code. Township Manager Swichar stated he would like to look at other companies. There was a discussion about the benefits of doing an editorial and legal analysis of the Township Code.
2. **Contact Planning Commission Member Stephanie Saxton** – Dennis Crook briefly discussed Ms. Saxton's recent low attendance at Planning Commission meetings. Mr. Crook stated he has tried to contact Ms. Saxton multiple times by different methods. He asked if anyone else would volunteer to reach out to her. Mr. Perzan recommended looking at the Planning Commission Procedures to address the situation. John Nielsen volunteered to reach out to Ms. Saxton.

**Adjournment.**

**MOTION:** Dennis Crook made a motion for the June 4, 2018 Planning Commission meeting to adjourn at 9:15 pm. Joe Perzan. **VOTE:** 6-0.

Respectfully submitted,



Lisa Valaitis  
Township Secretary