

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
November 24, 2020 Approved minutes
6:30 p.m.

Members Present

Wilson Lambert, Chairman
Joe Heffern, Vice-Chairman
John Nielsen, Member
Carol Kulp, Member
Katja DiRado, Member

Township Staff Present

Scott Swichar, Township Manager
Township Solicitor
Mike Crotty

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

Chairman Lambert called the meeting to order at 6:30 PM.

2. DISCUSSION

A. APPROVAL OF MINUTES

October 13, 2020 BOARD OF SUPERVISORS MEETING MINUTES

MOTION: Vice-Chairman Heffern made a motion to approve the October 13, 2020 Board of Supervisors meeting minutes as presented. Supervisor Kulp seconded.

VOTE: 4-0. Supervisor Nielsen abstained.

October 27, 2020 BOARD OF SUPERVISORS MEETING MINUTES

MOTION: Vice Chairman Heffern made a motion to approve the October 27, 2020 Board of Supervisors meeting minutes as presented. Chairman Lambert seconded.

VOTE: 5-0.

B. FIRE DEPARTMENTS & DEPARTMENT OF EMERGENCY SERVICES

1. October Westwood Fire Company Fire Chief's Report submitted for Board and resident review.
2. October Westwood Fire Company EMS Report submitted for Board and resident review.
3. October Modena Fire Company Fire Chief's Report submitted for Board and resident review.
4. October Modena Fire Company Fire Chief's Report – East Fallowfield Calls Only submitted for Board and resident review.
5. October Modena Fire Company EMS Report submitted for Board and resident review.

C. TREASURER'S REPORT

- 1) October 31, 2020 Treasurer's Report and Payment Authorizations.

MOTION: Chairman Lambert made a motion to approve the October 31, 2020 Treasurer's Report as presented. Vice Chairman Heffern seconded.

VOTE: 5-0

- 2) Payment Authorizations

MOTION: Chairman Lambert made a motion to approve the Payment Authorizations for the period of October 28, 2020 through November 24, 2020 in the total amount of \$305,959.68 as presented. Vice Chairman Heffern seconded.

VOTE: 5-0

D. TOWNSHIP MANAGER'S REPORT

- 1) 2020 Budget.

Township Manager Swichar stated that the Board of Supervisors met on November 10 to review the proposed 2021 Township budget. Only a few items were changed on the budget as a result of the November 10 meeting. He stated that in the General Fund, the Library Donation/406.520 was changed to Community Donation.

Township Manager Swichar stated in the Fire/EMS budget, the Township had increased the subsidy in 2021 budget from \$132,800 to \$156,800, a \$24,000 increase to fund expanded paramedic service from Westwood Ambulance. He questioned Township Solicitor Crotty whether a service agreement with Westwood would need to be implemented.

Solicitor Crotty stated yes.

Mr. Swichar stated that he spoke with Tower Health a couple weeks ago. He confirmed their Catherization Care unit would close in December. The proposal to add expanded paramedic service would supplement the loss of service at Brandywine Hospital.

Mr. Swichar stated that the Board could consider a motion to authorize the advertisement of the 2021 Township budget. Per the second class township code, the budget needs to be advertised for at least 20 days. The adoption of the budget is scheduled for December 22.

Vice Chairman Heffern questioned if there is any change to People's Hall. He questioned if the Board is considering making the \$8,000 community donation to People's Hall.

Township Manager Swichar stated that the contribution could be made to People's Hall. He also stated that the Board has not yet made a contribution to the Coatesville Area Library in 2020.

MOTION: Chairman Lambert made a motion that the Township authorize the advertisement of the availability of the 2021 budget. Vice-Chairman Heffern seconded.

Supervisor Dirado questioned whether a motion could be made to contribute to People's Hall next year. She stated that she wants the Board to decide now where to direct the funding.

Township Manager Swichar questioned whether the Board wants to change the donation in the 2021 budget and direct the funding only to People's Hall. Mr. Swichar stated that the line item was changed to community donation to offer more flexibility where to direct the funds. The Board could decide now or in 2021 where to direct the funding.

Vice Chairman Heffern stated that he would prefer to wait until next year to discuss where to direct the community contribution for 2021 since the contribution will not happen until next year. He is not opposed to making the contribution to People's Hall.

Supervisor Nielsen stated that it was his understanding that the contribution would be split between both organizations. He stated that the Township might want to wait until February or March to make a donation since it will have a better idea of tax revenues by then.

Chairman Lambert stated he would prefer to wait until next year to determine where to direct the community donation. Supervisor Kulp stated she agrees.

John Sly, President of Westwood Fire Company, stated that Valley Township voted last night to increase their Fire/EMS tax to cover the additional costs. He is optimistic the change will save lives.

Supervisor Dirado stated that she wants Mr. Sly to provide statistics on heart patients to justify the expense. She stated that she wants the report to indicate which hospital the patient is being sent to.

Mr. Sly stated that the reports next year will specify advanced life support and basic life support calls to show results.

VOTE: 5-0.

2) Ridgecrest Escrow Release No. 12 (Phase 1).

MOTION: Vice Chairman Heffern made a motion that the Township approve Escrow Release No. 12 for the Ridgecrest Residential Subdivision Phase 1, in the amount of \$55,788.57.
_Supervisor Nielsen seconded.

Township Manager Swichar stated there is a letter in the Board's packet from Chris Della Penna recommending the release.

Supervisor Nielsen questioned if the entrance to Ridgecrest Development on West Chester Road is a temporary measure or whether it is permanent. He stated that that the deceleration lane is extremely narrow and almost non-existent. He stated that he wants his comments placed in the minutes.

Township Manager Swichar stated he would check with Township Engineer Chris Della Penna.

Supervisor Kulp questioned if the road was temporary.

Township resident Sandra Stephens stated that she lives near the entrance to Ridgecrest and it does not appear to be a temporary road.

VOTE: 5-0.

3) Ridgecrest Escrow Release No. 6 (Phase 2).

MOTION: Chairman Lambert made a motion that the Township approve Escrow Release No. 6 for the Ridgecrest Residential Subdivision Phase 2, in the amount of \$182,988.11. Vice Chairman Heffern seconded.

Township Manager stated there is a letter from the Township Engineer recommending the release.

Supervisor Dirado questioned if the entrance issue at Ridgecrest would be resolved before approving the release of more escrow money.

Chairman Lambert stated Mr. Swichar would speak to Chris Della Penna.

Supervisor Nielsen questioned if this section of the development was part of the escrow release.

Solicitor Crotty stated that the releases were not connected to this section of the development. \$709,000 is left in the escrow for phase 2.

VOTE: 5-0.

4) Lease Agreement for Postage Machine

MOTION: Chairman Lambert made a motion to authorize the Township Manager to sign a 63-month lease agreement with MG Financial Services/Key Business Solutions for a Postage Machine with first 6 months at \$9.00/month and remaining 57 months at \$27.95/month. Vice Chairman Heffern seconded

Township Manager Swichar stated the Township currently leases a postage machine from Pitney Bowes at \$29.99/month. The Township is no longer under contract with Pitney Bowes and the machine needs to be replaced. The machine is being discontinued and will no longer receive software updates. It is not compliant with postal regulations. The Township has a proposed agreement with Key Business Solutions to lease a new machine for \$9.00 month for the first 6 months and \$27.95 month for the remaining 57 months. The Township will save a few dollars every month and receive a better machine. There is a proposed motion to approve the agreement.

VOTE: 5-0.

5) 2020 Audit of Police Pension Plan and Non-Uniform Pension Plan

Township Manager Swichar stated that the Township received an audit in the fall that was performed by the State Auditor. It was conducted for the Township's police and non-uniform pension plan for the period January 1, 2016 to December 31, 2019. The audit is a requirement since the Township receives state aid.

The Township received negative findings on the audit report. The Board received a copy of the audit report. Township received two negative findings on the non-uniform plan. The first finding was an excess of entitlement. In 2019, the Township received state aid that was higher than the actual MMO for the police pension plan. The excess state aid was deposited by the Treasurer into the PMRS non-uniform Pension Plan which includes part-time employees.

The auditor explained that the Township can only use state aid for full-time employees. This is a minor issue; however, the Township issued a check for \$1,476 that will be deposited into the police pension plan as a remedy.

Finding number 2 was for failure to maintain an adequate record keeping system to effectively monitor activity of the pension plan. PMRS is required to complete the annual financial statement for 2019, The Township has not received the financial statement for 2019. He stated that most municipalities have not yet received their statements either. He stated that he contacted PMRS but has not heard back from them. The remedy was contacting PMRS to find out why they have not received the financial statement.

The Township received two negative findings on the police pension plan. They were minor findings. The first finding was for failure to deposit the full amount of state aid into the pension plan. In 2016, the Township Treasurer was directed by the auditor to deposit \$444 of state aid into the police pension plan. There is no evidence the deposit was ever made. The Township Treasurer is on medical leave. The Township looked at QuickBooks and did not see that the deposit was ever made. The second finding was for failure to maintain an adequate record to monitor activity of the pension plan. PMRS has not completed the 2019 financial statements. The Township has not yet received a response from PMRS when they will be completed. The state auditor stated that the Township will not receive a fine, but the negative findings will be published. No further township action is needed other than asking PMRS to complete the 2019 financial statements.

Supervisor Nielsen questioned whether the funds come from the state. He questioned if the funds come in the form of a paper check and whether the state received the paper check.

Township Manager Swichar stated yes. He checked with PMRS and they did not have evidence that they ever received the check.

Supervisor Nielsen questioned how much money needed to be redeposited. He questioned whether the money was ever paid into the pension system.

Township Manager Swichar stated that a check for \$1,476 was deposited and a second check for \$444 plus interest which amounted to approximately \$600 was also deposited.

Solicitor Crotty stated it appears that part-time employees should not have been covered for the non-uniform pension plan and the state paid too much. Funds were incorrectly allocated to the non-uniform plan. For the uniformed pension, there is no evidence the funds were ever deposited.

Township Manager Swichar stated that the \$444 was never deposited into the pension system. The \$1,476 was deposited but it should not have been deposited into the non-uniform pension plan. The state aid should not have been deposited into the plan where there were part-time employees. No Board action is required. The Township made all efforts to correct the negative findings.

Chairman Lambert questioned if the audit needs to be advertised.

Solicitor Crotty stated that the audit does not need to be advertised.

Township Manager Swichar stated that the audit letter states that the audit is public record and contents of the audit may be released to the news media. He stated that he interprets the letter that if someone requests the audit, then the Township will release them.

E. LEGAL

1) Teamsters Memorandum of Understanding (MOU).

Solicitor Crotty stated that he received the executed copy of the Teamster Memorandum of Understanding. This is the first step in memorializing the agreement with the Teamsters which covers the Public Works employees. The document is ready for approval.

Township Manager Swichar stated that the agreement expired in 2019 and the Township has been meeting with the Teamsters for at least a year to negotiate the new agreement. He stated they reached a fair agreement with the Teamsters and the contract is for three years.

MOTION: Vice Chairman Heffern made a motion that the Board approve and authorize the execution of the Memorandum of Understanding between the Township and the Teamsters Local 312, in the form as presented. Supervisor Kulp seconded.

VOTE: 5-0.

2) Approval of Township Manager's Employment Agreement

Solicitor Crotty stated that when Township Manager Swichar was hired he had an employment agreement. The proposed agreement is an extension of that agreement. The Township can have the new agreement in place until January 2022. This agreement sets forth an increase in base wage which has not occurred since Mr. Swichar was hired. The new agreement covers medical, sick leave and other terms of employment

MOTION: Vice Chairman Heffern made a motion that the Township execute an updated employment agreement establishing salary, benefit and employment terms and conditions with the Township Manager for the term from November 24, 2020 until January 3, 2022. Supervisor Dirado seconded.

VOTE: 5-0.

Township Manager Swichar thanked the Board for the opportunity to serve the Township.

3) Draft Ordinance #2020-02 PMRS Pension Plan Amendment of Non-Uniform Pension Plan

Solicitor Crotty stated PMRS wants the plan amendments in the form of an Ordinance. The Township is required to advertise the Ordinance.

Township Manager Swichar stated there was one change in the non-uniform pension plan documents. The new contract will reflect no pension plan benefits to part-time employees. This is consistent with the employee manual and labor contract with the Teamsters. There are no additional changes. The PMRS language will reflect the language in the labor contract and employee manual.

MOTION: Vice Chairman Heffern made a motion that the Township authorize the advertisement of Ordinance #2020-02 PMRS Non-Uniform Pension Plan Amendment for adoption. Supervisor Dirado seconded.

Supervisor Dirado questioned if there is anything retroactive that would affect the Township.

Solicitor Crotty stated no. He stated that the personnel manual would control anything in the past.

4) Draft Ordinance #2020-03 PMRS Pension Plan Amendment of Uniform Pension Plan

Solicitor Crotty stated that this amendment pertains to the unformed pension plan.

MOTION: Vice Chairman Heffern made a motion that the Township authorize the advertisement of Ordinance #2020-03 PMRS Uniform Pension Plan Amendment for adoption. Supervisor Kulp seconded.

VOTE: 5-0.

5) BAWA Fellowship Update

Solicitor Crotty stated that the plans were approved in June or July subject to a variety of conditions including posting the financial security. They have done so. The plans will be ready for the Board to sign. No Board action is required.

6) 2020 Independent Auditor Appointment, 2020 Reorganizational Meeting and Elected Auditors Meeting.

Solicitor Crotty stated that the organization meeting is at the beginning of the year. He stated that the Township tries to group as many advertisements as possible together to save costs. The elected auditors meeting would be the day after the reorganization meeting.

MOTION: Vice Chairman Heffern made a motion that the Township authorize the advertisement of the intent to appoint BBD as its Auditor, to be considered at the Board meeting on January 4, 2020, as well as to advertise the organization meeting of the Board of Supervisors for 6:00 p.m. on January 4, 2020 and notice of the elected Township Auditor's meeting on January 5, 2020 at 6:00 p.m. Chairman Heffern seconded.

Township Manager Swichar stated that BBD will not increase the price of its audit. The fee will remain \$10,000.

VOTE: 5-0.

7) Cell Tower Ordinance

Solicitor Crotty stated that Supervisor Kulp forwarded information regarding cell phone tower regulations. He stated that he wants to make sure that the Board agrees to allow him to review the issue. He stated that the Township's hands are tied given their Public utility status and status with the Federal Communications Commission.

Supervisor Kulp questioned if Mr. Crotty received the email regarding the cell tower issue.

Mr. Crotty stated yes. Ms. Kulp stated her main concern is protecting the community from 5G. 5G technology is second floor level and 150 feet apart. 5G gives off microwave radiation and is on a lower level than regular cell technology. She stated that 5G has the same radiation as the high towers.

Solicitor Crotty stated the Township is subject to powers that that the state gives the Township. There was a Supreme Court decision from Pennsylvania that granted public utility status to a 5G carrier system. The Township may have its hands tied on the issue.

Supervisor Kulp stated she does not believe the Township's hands are tied. If a resident were to sue the Township, then the telecommunications company would move on.

Solicitor Crotty stated that the telecommunications companies due sue townships in federal and state court. He stated he wants to make sure the Board is agreeable to him looking into the issue.

Supervisor Dirado questioned if Mr. Crotty could send information and terminology to the Board.

Vice Chairman Heffern questioned if Mr. Crotty would send him the Pennsylvania Supreme Court case name.

Township Manager Swichar questioned if the Township can seek revenue from the 5G cell carrier company.

Solicitor Crotty stated no. The small cell 5G systems often go on top of telephone poles. The Township would lose the ability to zone once they reach public utility status.

Chairman Lambert questioned if this utility can be regulated. He questioned if the Planning Commission should be involved.

Solicitor Crotty stated if the entity is a public utility, the ability to regulate is constrained. A change to the Ordinance would go back to the Planning Commission. He stated that he would need approximately 4 hours to lay out the basics of the issue.

Chairman Lambert stated that Mr. Crotty has the go ahead to look into the issue.

F. PLANNING COMMISSION

- 1) No Report Submitted

G. POLICE DEPARTMENT

- 1) October Police Report submitted for Board and resident review.

H. PARK AND RECREATION BOARD

- 1) Vice Chairman Heffern stated that the Eagle Scout ADA accessible fishing pier project is complete. There was a ribbon cutting ceremony. The committee has discussed procedures and is trying to focus on some of the more immediate concerns moving forward. The Park and Recreation Board received applications for two prospective members, Al Wright and Sandra Stephens.

Supervisor Nielsen stated the new trees at the park look great.

I. PUBLIC WORKS DEPARTMENT

- 1) October Road Department Report submitted for Board and resident review.

J. HISTORICAL COMMISSION

No report submitted.

K. OLD BUSINESS

L. NEW BUSINESS

Supervisor Nielsen stated that Township resident Paula Davis was having a problem obtaining a police report for a 911 call. Solicitor Crotty requested that he be able to view the police report first to see if any information needs to be redacted. There was a discussion among the Board members about the issue.

Supervisor Nielsen stated that 10 Newlinville Road was given approval to turn one unit into two units by the Zoning Hearing Board. He stated that the property is wrapped in Tyvek insulation which is falling off. He questioned the situation.

Township Manager Swichar stated that he discussed the situation with the building inspector who would investigate further.

Supervisor Dirado questioned why footings were not installed at the site of the park restroom. She stated she read an email that blocks of stone were removed from the site. She questioned if there is a guarantee in case the building sinks.

Township Manager Swichar stated that the engineered plans call for a crushed stone base. He stated that the blocks were only removed from where the electrical line was trenched. Township Manager Swichar stated that the Township would likely file a lawsuit should the building sink.

M. PUBLIC PARTICIPATION

None

N. ADJOURNMENT

MOTION: Supervisor Dirado made a motion to adjourn the November 24, 2020 of Supervisors Meeting at 8:10 PM. Vice Chairman Heffern seconded

VOTE: 5-0

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Scott M. Swichar", is displayed on a light gray rectangular background.

Scott Swichar,
Township Manager/Secretary