

**EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING**

April 28, 2009

Approved

6:40 PM

CALL TO ORDER, SILENT MEDITATION AND PLEDGE OF ALLEGIANCE

IN ATTENDANCE: George Broadbent, Chairman; Garth Monaghan, Member; Chris Amentas; Member, Gary Barach; Member, Vince Pompo, Solicitor; Denise Miller, Township Secretary. Absent: Chris Makely, Vice Chairman.

APPROVAL OF MINUTES:

Mr. Broadbent moves to accept the March 24, 2009 BOS minutes as presented.

Mr. Monaghan 2nd. With no comments. Vote: Unanimous.

CITIZENS BY REQUEST:

Horace Helm – (Representing the homeowners of 340 Misty Patch Road) requesting to keep a trailer on the property of 340 Misty Patch Road while a house is being built. Mr. Pompo replies that previously the Board has required the Township to enter into an agreement with the lot owner to apply for a demolition permit for the old house at the same time they apply for a building permit and an escrow posted sufficient to cover the demolition of the old house and the building permit would be issued with the condition that the new building could not be occupied or get the final U&O until the old building was demolished. Mr. Helm states that will be fine. Mr.

Broadbent asks Mr. Pompo to draft something up to give to Denise. Mr. Pompo replies that he will need more information.

Mr. Helm states he will contact Denise with the information.

Glenn Colyer – postpones his comments until another meeting.

CORRESPONDENCE:

Voters Services - The following changes are to be made after voter services research: Jim Sisk from 2 yr. auditor expiring in 2009 to 6 yr. FT auditor expiring in 2013. Glenn Colyer from 2 yr. auditor to 6 yr. unexpired to expiring in 2010.

Fire Departments - Mr. Broadbent states the 3rd and 4th quarter fire department checks have been released.

Mr. Dalusio of 108 Cumberland has informed the Township that he will proceed with the Zoning Hearing Board. Conrad Debreu comments that according to the Township Zoning in order to ask for a Variance you have to be within the boundary of the residence deeded property and this is not. Mr. Broadbent replies that it will be determined by the Zoning Hearing Board. Bob King asks if you win or lose do you still have to pay \$1,500.00 and if you don't agree with the decision, can it be appealed.

Mr. Broadbent replies yes, you pay either way and it would be appealed at the Court House.

Mr. Barach asks if the Township should send Mr. Dalusio a letter to make sure he understands everything and an estimate of the costs. Mr. Broadbent replies that Rob, Building Inspector, has been in contact with Mr. Dalusio. Mr. Monaghan asks if you get back unspent money. Mr. Pompo replies yes. Bob King asks who pays after the \$1,500 is used. Mr. Broadbent replies that the Township pays and then gets reimbursed by the applicant.

Arcelor/Mittal donated \$5,000.00 for smoke detectors due to the recent fires, contact the Township office if you need one installed. Mr. Amentas asks how this is handled. Denise replies that the requests come to the Township and then are forwarded to the Fire Department.

7 Yr. Agricultural Review: Mr. Monaghan explains that every 7 years the property that is in the Agricultural Security Area (ASA) has to be reviewed and all residents have to be contacted. According to the County being in the ASA does not give you a tax break. Mr. Monaghan is waiting for a call to see if the CCPC will do the work. Denise Miller comments that she needs to know if she should move forward so an ad can be placed and the letters can be sent out. Mr. Pompo states that the law requires that every 7 years this is done, with tax payer money being used, and there is no penalty or negative consequence for not complying but recommends to follow the law.

Mr. Monaghan states that if the Twp. does not do this everyone in the ASA stays in for another 7 years.

Mr. Barach asks if there is a less expensive means to notify the residents, like putting something in the newsletter.

Mr. Pompo replies that the Township has to have evidence that each homeowner was notified and also if you're in the ASA agricultural nuisance suits against you are prohibited.

Mr. Monaghan comments that some parcels on the list are from Modena, Sadsbury and Valley.

Mr. Pompo states that if a Twp. does not meet the number requirement you can piggy back to another Municipality by requesting that they be included.

Mr. Broadbent moves to authorize Denise Miller to send out the letters to the residents in the ASA. Mr. Amentas 2nd. Mr. Amentas states that #1 indicates that the Board has to determine by vote the date the ASA has been created, does that mean every single one has to be voted on and determine when they were created from the official stand point.

Mr. Broadbent replies that they can enact all at once to have their 7 year term start January 2010. With no other questions. Vote: Unanimous.

PLANNING COMMISSION:

The Unapproved February and Approved January PC minutes are in the back of the room and on the website.

The PC recommends having Ray Ott & Company do the revamping of the Township Comp Plan for \$9,835.00 (after County grant). The Principal of Ray Ott will also attend all meetings. Mr. Broadbent moves to accept the PC recommendation to have Ray Ott & Company do the revamp of the Township's Comp. Plan for a total of \$9,835.00 after the County Grant payment of 75%. Mr. Monaghan 2nd. Mr. Amentas asks if the Twp. gets the money from the County before payment is made. Mr. Pompo replies that the Twp. does not get the money from the County until the work is completed. Deborah states

Ray Ott will complete all the paperwork that needs to be done. Chris Amentas asks about the Jan. minutes stating 90% can be paid. Deborah replies that 90 % will be paid if the Township pairs with another Township. Mr. Amentas will call South Coatesville to see who they have for their Comp. Plan. Mr. Broadbent asks Deborah to confirm the time table and see if there are any penalties if not complete by the end of the year. Deborah replies that she will call Ray Ott to find out. With no other questions. Vote: Unanimous. Mr. Barach suggests saying contingent on review of the contract. Mr. Broadbent amends his motion accordingly.

SOLICITOR REPORT: Mr. Pompo

TowerCo. Bond - Motion to accept the TowerCo Bond #CMS249172 that replaces Bond #103247268 (formally Sprint-Twp. tower) The bond (\$39,000.00) covers the cost of dismantling the tower at the conclusion of the lease. Mr. Pompo states he reviewed the bond and has no objection. Mr. Broadbent moves to accept the replacement bond for the Tower located on the Township property. Mr. Monaghan 2nd.

Mr. Barach asks do you require a bond or cash escrow for a new tower going up. Mr. Pompo replies he believes that under the existing Ordinance it would be a bond. Mr. Barach asks if at this time can the bond be converted to cash escrow. Mr. Pompo replies that it could be changed the next time the Zoning Ordinance is changed. Mr. Amentas asks if the Tower was providing service to Spring Nextel. Mr. Broadbent replies yes. Mr. Barach asks if any due diligence was done by calling the Township to see what their solvency is. Mr. Pompo replies since it's an out of State company he checked to see if they were registered and qualified to do business and registered with the Insurance department and they are. With no other questions.

Gary Barach opposed. Vote: Unanimous.

UCC Appeals Board - Mr. Pompo has reviewed the UCC Appeals Board Ordinance and Agreement as to the structure and takes exception to the provision in paragraph 11 on page 5 of the agreement in which each member of the Regional Board agrees to indemnify, save, defend, and hold harmless the Board of Appeals from any claims that are brought against the Board of Appeals, its employees, agents, and business invitees as a result of their actions or omissions and has communicated this objection with the Attorney, Stacy Fuller, that is putting together the documentation to create the Regional Board to take out the indemnification provision to come and instead there be a provision that required the Board of Appeals to essentially indemnify it's members and to insure itself and name all members as additional assured and was told that the organizers considered this but did not want to go through the expense of insuring the Board. The Township insurer indicated that with a special endorsement it could protect the Township against this indemnification. Mr. Amentas states it would be difficult to insure someone against willful acts.

Mr. Monaghan asks if there is an Eastern Chester County Regional Appeals Board. Mr. Pompo replies it's made up of the members of the West Chester Cogg which is made up of 5 Municipalities that are part of the West Chester School District and will ask if anyone outside of the Cogg can join.

LEGAL ISSUES:

PMRS - Mr. Barach explains that the Board needs to decide if they want to use the un-invested money to defray pension costs or re-allocate to those employees in the plan and whether to increase the contribution to the fund.

Mr. Pompo has reviewed the sample Resolution and it looks like the standard document for these plans. The Board decides to table for the next workshop meeting.

Chief Admin. Officer – It was noted in the State Audit that no one was named as the Chief Admin. Officer after Mark Espie left employment. Mr. Barach would like to call the person who wrote the audit letter before making a decision.

5% Surcharge - The Board directs Mr. Pompo to amend the fee schedule to add a \$25.00 admin. fee for invoices not to include trash invoices and 1.5% per month that the bill is not paid.

Trash Ordinance – Mr. Amentas explains he would like the language more clear in the Ordinance and asks Mr. Pompo to incorporate his issues into the Township Ordinance. Mr. Pompo will get back to the board with a draft Ordinance.

Linda Hart's old computer - Mr. Broadbent moves to authorize Denise Miller to throw it away. The hard drive has been cleared according to the Department of Defense Standards. Mr. Monaghan 2nd. Jeanne Berlin suggests taking it to the CAT Brandywine HHW event. With no other questions. Vote: Unanimous.

W.Chester/S. Caln Road – Mr. Amentas explains that the monies for the construction to do W.Chester/S. Caln Road is from an escrow account funded by the various developers based upon certain contribution per constructible lots. The Township is still in the process of finding out how much is in the escrow, approximately \$165,000. 00.

There was a cost estimate by Traffic Planning and Design (TPD) last year on behalf of the Township to construct the improvement as designed by McMahan & Associates (in 2006) for \$450,000.00. After contacting Steve Giampaolo of McMahan & Assoc. and asking him if the plan can be broken down into different parts so that what is available can be used to do something and also to tell us whether or not the estimate the Township has is reasonable and where another \$80,000.00 engineering fee would come from and if the flashing beacon is included in the price.

Mr. Giampaolo said the repairs from the intersection all the way down to Misty Patch Road are not included in the estimate and will look at the construction cost estimate and the plan to figure out how to break down the plan.

Mr. Amentas recommends to the Board to have Mr. Giampaolo look at the intersection down to Misty Patch Road and give a rough idea on what work needs to be done and the cost because Chester County is updating their Transportation Improvements Inventory. Mr. Amentas called the County since the deadline has passed and was given a few more weeks.

The Board excuses Mr. Pompo at 8:25 pm from the BOS meeting.

TREASURER'S REPORT: Mr. Barach on behalf of the Board of Supervisors Mr. Barach presents a summary of the cash account balances that have been reconciled. The total funds are \$1,973,230.12 and the composition of funds have to be investigated and reconstructed to find out what money was lent to another fund and what the original was.

A bookkeeper was hired to reconstruct the funds, the priority is to establish ad hoc controls for the back office for the transaction that are occurring in 2009.

Mr. Barach would also like to take advantage of the interest bearing account and just transfer what is needed to the general fund to pay bills on a weekly basis.

Mr. Barach presented a proposal from McGladley and Fuller, a CPA firm to conduct the 2008 audit for approximately \$20,000 - \$25,000 plus out of pocket costs. Mr. Amentas points out some conflicting language: all inclusive maximum fees are estimated to range from \$20,000-\$25,000. Mr. Barach replies they reviewed the Twp. prior certified financial statements to see what was involved. Mr. Barach motions the Firm McGladley and Fuller be obtained as the Certified Public Accountant Firm to perform the 2008 Certified Audit for East Fallowfield Township with fees ranging from \$20,000.00 – \$25,000.00 plus out of pocket costs and if such fees are greater than \$25,000.00 they will need additional approval and explanation prior to authorizing those fees being incurred and contingent on out of pocket expenses not to exceed \$1,000.00 without explanation and Board approval. Mr. Broadbent 2nd. Mary Bilinski asks if bids were taken. Mr. Barach replies that the Twp. received an estimate of approx. \$18,000 from the last year auditor. There are also not a lot of Firms that do Municipal Accounting.

Mrs. Biliniski asks if the Board was not happy with the last year auditor. Mr. Barach replies he was not happy with them and it is really good policy to change your auditors every so often. Mr. Broadbent also replies that there were some issues with not getting the audit until August for the 2007 year. With no other questions. Vote: Unanimous.

Bob King asks if Mr. Barach has an accounting software package in mind. Mr. Barach replies that he will have to do research. Mr. Kings asks why code 410 for sick time at zero and should money be allocated for the time employees get. Mr. Barach replies he can get that information for him.

Glenn Colyer asks about the police contract OT (410.131) \$26,800 budgeted. Nothing is filled in on the dots. Mr. Barach replies this is not the final report.

PARK AND RECREATION: Peter Massaro

Mr. Massaro states the DCNR grant application was submitted electronically by April 22nd and a few forms need to be signed by the Board and mailed certified to DCNR to be received by May 2nd.

P&R is in the process of compiling a grant log for the Board by the May meeting. Mr. Barach asks if Mr. Massaro has an analysis of expenditures made against the grants. Mr. Massaro replies that this responsibility was given to the Township Engineer and all they did was make application and notified the Board of the funds that came in, then bid the project and then award the project and then went ahead with the project.

Mr. Massaro explains that the grant applications are based on an Engineer's estimated and the funds are awarded long before the project goes out to bid so when the bids come in early the bid is usually higher so the shortfall is made up by the Township plus the obligated amount of the grant. The estimate for this grant application is \$186,000 and change and last month the Board it was indicated the same 2008 application was \$140,000.00, this increase is due to some additions to the scope of work and also some of the heartaches that were learned in the first phase of construction, primarily storm water management costs.

The DCNR grant is a 50% grant. Which means if there is no other funding source, the Township would be obligated to pay the balance of the construction.

The County grant can be used as a matching grant. Therefore, if we are awarded the County grant, that would decrease the amount of fee-in-lieu funds needed to cover the cost of construction

Mr. Massaro asks the Board to sign for grant authorization. Mr. Barach asks if approval is needed. Mr. Broadbent replies that Resolution 2009-05 was approved at the last meeting authorizing him to sign the DCNR grant application.

Mr. Barach asks if the Twp. gets the grant are we obligated to move forward or can a decision at that point be based upon cash available. Mr. Massaro replies one of the documents to sign tonight is a grant agreement which says that the Township will provide for its committee and is obligated to provide your percentage of funding as outlined in the application, so once it's signed you move forward.

Ms. Biliniski asks what is being built. Mr. Massaro replies they are building an ADA compliant Bridge to replace the existing bridge that spans the Dennis Run Tributary in the Park and to pave the trail in the meadow from the Eastern portion of the park to the Western portion of the Park. This bridge will be used at another location in the park.

Mr. Massaro asks the Board to designate another Board member for the P&R meeting when Mr. Makely cannot attend. Mr. Broadbent replies that he will attend when Mr. Makely cannot.

Mr. Amentas reads paragraph #10: “The applicant accessed what administrative, cash, and/or non-cash needs will be required to provide the local match for the requested grant therein applied and affirms that the match is available and the application has the capacity to proceed with the project”. Mr. Massao replies based on past experiences with the State, all applications are due in the Spring and are suppose to announce in the fall those Townships that are recipients of funding. This past year that announcement was not made until the spring.

Mr. Amentas asks for a 5 minute recess in order to print off the grant agreement.

The Board meeting reconvenes at 9:50 pm.

Mr. Broadbent states that if the funds are not available the Township can ask for an extension.

Mr. Amentas states that he did not see anything in the 22 page grant agreement to the affect that if a grant is given that the Township is obligated to match the grant and proceed and complete the project and if they don't do that, that there is some adverse ramification. There are provisions that are obviously incorporated for protection for the grantor; the grantor has the right to suspend the project, to terminate the grant agreement.

Also, the estimate is not based on the estimate; it is based on the cost of the project activities. Mr. Massaro replies that at no time will it exceed the estimate. The Board agrees to have Mr. Broadbent sign the DCNR grant application.

Mr. Massaro leaves the meeting without going over the rest of the P&R agenda.

HISTORIC COMMISSION:

The March 11, 2009 minutes are in the back room and on the website.

Peg Young's materials have been documented and donated to the East Fallowfield Historical Society via Mr. Monaghan giving them to Rusty Young.

Mr. Monaghan announces the Historical Society Tour and asks for volunteers to call the Historical Society.

POLICE DEPARTMENT:

The March police report and Fleet Management reports are on the back table and also on the website.

Chief Mango informs the Board that the police have a few high mileage vehicles and if they get a grant vehicle they will not have to order a vehicle October for delivery in January.

Mr. Monaghan asks if the Crown Vic. the vehicle of choice. Chief Mango replies that the officers would say yes. The Explorer is the SUV of choice but there are problems with the police driving them like a police car.

Chief Mango reads Resolution 2009-06 “Blue Ribbon Week”. Mr. Broadbent moves to pass

Resolution 2009-06 with the correction of East Fallowfield Supervisor for recognition of Blue Ribbon Week. Mr. Monaghan 2nd. With no comments. Vote: Unanimous.

In response to the possible pandemic (Flu), there will be pods stationed at the Schools where flu shots will be administered to citizens if they are developed. No money is available for this detail but the police department is responsible for providing officers to protect the pods. Other costs that are unfunded mandates, such as masks and other equipment that some have already been purchased.

EMERGENCY SERVICES:

The March 2009 EMS report is available in the back room and on the website.

The Jan., Feb., and March Westwood Fire reports are on the back table and on the website.

Mr. Broadbent moves to authorize the payment of \$200.00 for Jim Reagan to attend the Bucks County course. Mr. Monaghan. With no comments. Vote: Unanimous.

PUBLIC WORKS DEPARTMENT:

The March 2009 road and vehicle reports are in the back room and on the website.

The March 2009 recycling report is in the back room and on the website.

UNFINISHED BUSINESS:

Mr. Broadbent moves to allocate funds for 2009 to the 3 Fire Departments servicing East Fallowfield in the portions of 50% for Modena, 35% for Westwood and 15% for Pomeroy.

Mr. Barach explains option 1 was agreed to more favorably by Modena and Westwood but not agreed to by Pomeroy. Option 2 that was the 50%, 35% and 15% was agreed to by all departments. Mr. Monaghan 2nd. Mr. Amentas asks how the fire calls go out. Chief McWilliams explains that East Fallowfield is broken down in sections and broke down in boxes and each street gets put into a box code. Example: Station # of 44 and 10th box, when that calls goes into 911 for that street, it pops up as being in the 4410 box which is the district.

Mr. Amentas asks what percentage of Westwood's Company time is spent responding independently to a situation. Chief McWilliams replies it would be in the 90% area.

Mr. Barach asks if it is understood that Workers Comp. is in this payment. The Board replies they understand. With no other questions. Vote: Unanimous.

NEW BUSINESS:

Mr. Broadbent moves to accept the request for the Bonsall Farm Estates Subdivision for an extension of time for Preliminary Plan Approval from May 1, 2009 to August 20, 2009. Mr. Monaghan 2nd. With no comments. Vote: Unanimous.

Mr. Broadbent asks the Board if there are any questions or concerns with any of the Providence Hill escrow releases. Mr. Amentas asks why are they asking for 3 releases at a time and not at different times. Mr. Broadbent replies they are for different phases.

Mr. Barach states he is not sure of the Builder's escrow account balances because he is showing the balance is approximately \$265,000.00.

The Board agrees to table until the next month in order for the balances to be verified before the escrow payments are released.

Denise is directed to give Providence Hill the Supervisors phone numbers if they call for their releases.

Mr. Amentas abstains from the Providence Hill escrow releases because of his history with the developer.

Mr. Barach informs the Board that he will call the Bank Officers of all the Banks the Township dealt with last year and ask them to do research on all accounts. Mr. Broadbent suggests talking with Mr. Pompo because he was involved in setting up the escrow accounts.

Mr. Broadbent informs the rest of the Board that the Central Vest Op account for the storage of all the files expires next week and will try to get a 30 day extension.

PUBLIC PARTICIPATION: 30 minute total time

Bob King asks Mr. Barach if Chris Della Penna has actual numbers for escrow monies.

Mr. Barach replies he does not believe that Chris actually verifies money going into the account; he has sheets that indicate what he expects the escrow to be and then authorizes a release of the money. Mr. King suggests asking Chris Della Penna for the escrow balances and the escrow accounts should be broken down for all developers.

Glenn Colyer asks who actually makes the escrow deposits. Mr. Barach replies they are transferred electronically into East Fallowfield's custodian account for the developers.

Bob King asks what line item is for the Modena police protection payments. Mr. Barach replies that it would be under the revenue section but may not show up as an amount under the 1st quarter because a check may not have been received.

ADJOURNMENT:

Mr. Broadbent motions to adjourn the BOS meeting at 11:15pm. Mr. Monaghan 2nd. Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary