

**EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
October 27, 2009
Unapproved
6:45 PM**

CALL TO ORDER, SILENT MEDITATION AND PLEDGE OF ALLEGIANCE

Mr. Monaghan motions to appoint Supervisor Chris Amentas as Temporary Supervisor.
Mr. Barach 2nd. Vote: Unanimous.

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

APPROVAL OF MINUTES:

Mr. Monaghan moves to accept the August 27, 2009 minutes as presented.
Mr. Barach 2nd. Vote: Unanimous.

Mr. Monaghan moves to accept the September 22, 2009 minutes as presented. Mr. Barach 2nd. Sharon Scott would like the comment by Bob Hennessey who spoke for himself and for his neighbor Judge McMahon regarding support for Chris Porter be added. The Board accepts this addition. Vote: Unanimous.

West Chester Road Bid: Mr. Pompo states the bid packets were opened on Friday (10/23) with the apparent low bidder being S.A. Macanga Inc. for \$89,256.73. Mr. Pompo reviewed the first 3 bids and found that S.A. Macanga did not have a full bid form. This was then reviewed against the bid instructions and an opinion and recommendation was made in which Mr. Pompo finds the document did not recognize an issuance of Addendum 1 to the bid where each bidder would indicate that they received an Addendum since the issuance of the bid document. The Addendum that went out also included the bidders statement of qualifications which S.A. Macagna did not recognize. The Addendum form by submittal of the form shows that they did receive the Addendum and then there are no other requirements concerning the Addendum. Mr. Pompo's opinion is that while there was the technical defect of not recognizing the Addendum that the Board may waive that if it chooses to and accept Macanga's road bid. Chris Della Penna, Township Engineer, states he spoke with Steve Macanga, President, and asked if there was an error or something missing for their bid and Mr. Macanga's response was that he is comfortable with his bid and he has workers that he wants to have work for. Mr. Macanga has also worked in the Township before and also paved Frog Hollow Road. Mr. Amentas asks how large was the Frog Hollow Road project. Mr. Della Penna replies that he wasn't involved in the process but believes it may be comparable in length. Mr. Amentas asks if Macanga did an inspection of the area. Mr. Della Penna replies that Mr. Macango drove the road and spoke with him several times about the job. Mr. Barach asks what kind of follow up does the Township do on a project like this. Mr. Della Penna replies that he will observe or a representative of the Township will observe. Mr. Della Penna states that Mr. Macanga has scheduled 2-3 days to do the job and he can be out there most of the time along with Tag. Mr. Barach asks if anyone that presented a bid at the meeting. No one replies. Mr. Barach asks Mr. Pompo if he is comfortable putting on record that with Macanga's omissions the Township does not have exposure of anyone saying that he should have been disqualified. Mr. Pompo is comfortable that this is a technically that may be waived by the Board.

Mr. Amentas asks Mr. Della Penna if 2-3 days appropriate for this job. Mr. Della Penna replies that he was thinking about a week. Mr. Amentas motions to accept the bid of S.A. Macanga to perform the necessary repair on West Chester Road in accordance with the bid documents that were prepared by Chris Della Penna for the price of \$89,266.73. Mr. Monaghan 2nd. Mr. Barach would like to add the authorization of how much time Mr. Della Penna will spend on the job. Vote: Unanimous.

Mr. Pompo states that after the award is made then someone has to notify the bidder and send out contract documents to sign as well as performance bonds, insurance certificates etc. and once that comes back you issue an order to proceed. Mr. Monaghan suggests that Denise Miller and Vince Pompo work together to get the information. Mr. Barach spoke with Chris about somebody making sure that the project is covered and coordination of the project number. Mr. Della Penna replies that he will do that when the project is completed. After Board discussion Mr. Pompo suggests that he asks for the documents and get them back to save time and then once completed give to Denise and Mr. Della Penna.

Mr. Monaghan moves to authorize the Township Engineer to be onsite for the entire project and also someone from the Township. Mr. Barach asks Chris if he can commit to 100% of the time. Chris replies that he will take care of this. Mr. Barach states the motion should say that Chris Della Penna to be on site 100% once the project is started unless there is some extenuating circumstances. Mr. Monaghan replies that is his motion. Mr. Barach 2nd. Joe Brazy asks if there is a warranty on the workmanship. Mr. Pompo replies that there is a warranty in the contract document itself. Vote: Unanimous.

Windshield Survey – Tabled until the November meeting.

CITIZENS BY REQUEST:

Joe Brazy of 77 Narragansett Lane – Mr. Brazy explains that a spring has suddenly appeared when the developer started grading and has concern with the developer putting a drain in versus doing the grading properly and if there is no remediation down the road the Town Home owners or the HOA will be on the hook. The spring is also not on any site plan and cannot be verified. Mr. Della Penna confirms that there is a spring that popped up during the construction process. Mr. Della Penna states Rouse/Chamberlains attempted correction was to put in the drain that is in the inlet but would like to see the plans and exactly what the drain is going to be and they also will have to get easements from all the property owners because the pipe will go through their back yards, this was three weeks ago and Rouse/Chamberlain now says he is in the process of obtaining the easements. Mr. Della Penna states that the whole swale along the back along the hill at Mr. Brazy's property is constantly wet and needs to be addressed. Mr. Brazy is concerned with this form of remediation if homeowners start putting in decks/patios that they will wash out or be uninsurable because of sitting on a swamp property. Mr. Brazy asks Chris for a copy of his punch list to compare with his punch list.

Justin Braun of 70 Narragansett Lot#189 is also affected by the swale and was with Iacobucci when their landscaper found the spring. Mr. Amentas states that when the plans come in and after Mr. Della Penna reviews them he will give both of them an update. Mr. Della Penna asks Mr. Braun if he was approached about an easement. Mr. Braun replies that he and his neighbors were but did not want to sign it. Mrs. Braun explains that their mulch washes onto their driveway and the water also freezes on their driveway in the cold.

Mimi Botkin – Not present.

Deborah Rush of 570 Fairview Road– Asks the Board to consider restricting firearms on Sunday and after dusk.

Sarah Sikora – Not present.

Sharon Scott of 325 Hephizbah Hill Road– Asks Denise if she gave the Supervisors the October letter that she delivered to the Supervisors. Denise replies that she does not have that letter. Mr. Amentas asks Mrs. Scott to provide a copy to Denise to forward on. Mrs. Scott asks about her police and office request. Mr. Barach asks if Mrs. Scott received any letter. Mrs. Scott replies nothing. Mrs. Scott requests the Board get her August 12th 911 call and the incident report from Chief Wilson and Officer Menna. Mr. Barach asks if these requests can be put in writing. Mrs. Scott replies that she will fill out another request. Mr. Amentas asks if this request obtainable from S. Coatesville. Mrs. Scott replies that Chief Wilson said it's up to East Fallowfield. Mr. Amentas disagrees with this. Mrs. Scott says that Chief Wilson will not do the report. Mr. Barach asks what is in the Township respect to this incident that she wants. Mrs. Scott replies nothing that is here. Mr. Barach says that whatever the Township has control of she can have. Mr. Pompo states if it is of public record. Mrs. Scott also asks for Officer Masterstephone's report again regarding her husband from the WAWA store. Mr. Amentas tells Mrs. Scott her time is up.

Beagle Club – No one present. Mr. Monaghan states that Mr. Makely approached the Beagle Club and he is not aware of their response.

Wanda Dixon of 716 Baron Crest Way- Mrs. Dixon presents the Board and Chris Della Penna with their engineer report on their backyard and wants to know how much of the seized money left. Mr. Amentas replies that he will go over this issue under the Legal portion of the agenda.

Jeff Haag – Not present but mailed in a letter regarding when will the newsletter come out.

CORRESPONDENCE:

Mr. Amentas asks Denise Miller why it says Composting pamphlet's on the agenda. Denise replies that it is a requirement for the MS4 that they are provided at the BOS meetings for residents to take.

PLANNING COMMISSION:

Bernie Beagle is resigning as Vice-Chairman and Deborah Rush as Chairman of the Planning Commission. These positions will be advertised and put on the website.

SOLICITOR REPORT:

Multi-Municipal Planning Ordinance – The Board tables this until the next BOS workshop.

Amendment to the Day Care Zoning Ordinance – The C.C. Planning Commission felt that given their understanding of how Day Care Homes are regulated by DPW and the International Building Code that the number of occupants, which in the Township Ordinance is no more than 6, should be 5 in order to be consistent with other regulations but after Mr. Pompo and Rob McLarnon reviewed this and confirmed that all the appropriate standards as well as the DPW licensure is consist with the 6. Mr. Pompo also spoke with the C.C. Planning Commission and they agree that they made a mistake.

They also indicated that the Township should consider requiring a safe outdoor play area for these type of Day Care Homes and an appropriate drop off and pickup area as well as to regulate

an outdoor play area to make sure there are appropriate setbacks from other houses to address any potential disturbance issues.

Rob McLarnon has concerns that there should be more expressed regulations in the Zoning Ordinance that would give the standards for operating these houses that were more consistent of these Day Care facilities even though the Township would not be regulating these by Conditional Use like the Township does with the Day Care facility and recommends to a limitation to the amount of the floor area of the house that can be utilized for the use, that the principal operator must be a resident of the dwelling to be consistent with the Home occupation use, the exterior of the residence shall have the appearance different than having a day care inside, standards as to noise, odors or light.

The County and Rob both required a certain minimum number of off-street parking as well as a discharge and pickup area, the minimum of 2 is what's in the Ordinance for other Home Occupations. This can be problematic with neighborhoods with smaller lot sizes to accommodate 2 off-street parking spaces in addition to a driveway. The Board should give strong consideration to probably eliminating this from a number of neighborhoods. The regulation for no outdoor storage of goods is pretty standard for home occupation. The outdoor play area requirement is consistent with the daycare center regulations, there is a minimum indoor play area in the Ordinance, the licensure requirement was added that is required from DPW as well as the requirements of having to comply under the billing code. Mr. Monaghan would like to revisit this Ordinance before advertisement and take a close look at where some of the potential sites could be because it may not be feasible. Mr. Pompo relies especially if it's in a more recent development where you plan out impervious on each lot and where the driveways are and to go in then and add more impervious and driveway may not be permitted under the HOA and advert the fabric of the Community by all these changes. Mr. Amentas replies that you can always ask for a variance and doesn't think that requiring somebody in a development who's not capable to adhering to this Ordinance to apply for a variance and explain why to the Zoning Hearing Board why they should be able to operate this daycare home. Mr. Barach asks Mr. Pompo his understanding why there are 2 parking spots. Mr. Pompo replies it goes to the health and safety to the people who are coming to the property who don't live there so how you are going to manage the internal circulation considering that the driveway is there for the parking area of the house so that if you're inviting other people to come in a non-typical residential use then you need the area for drop-off, pick-up, backing up. Mr. Barach asks if the issue the Township being sensitive to a potential operator in the development. Mr. Pompo replies right and the other side of the argument is that the concept that these daycare homes because of the amount of usage it's almost going to be like a regular residential house with additional activity however you have to assume that these is going to be people coming in cars for drop-off and pick-up. Mr. Barach asks does it make sense to say if you have 4-5 children you need the 2 spots and if you have or 2 children you don't need 2 spots. Mr. Pompo replies that you would have to figure out where to draw that line and how you would monitor that. Mr. Monaghan moves to advertise the Day Care Amendment Ordinance . Mr. Barach 2nd. Deborah Rush states that this Ordinance was on the last PC agenda but they did not know what is was for. Bob King comments on setting precedence on Zoning Hearing Board approval to Day Care. Vote: Unanimous.

ATV Ordinance – Tabled to the November workshop.

Trash Ordinance – The most recent draft from the prior discussion makes one change requested at the last meeting that's on page 5 penalty section that adds a service charge of 1.5% per month to outstanding invoices over 30 days. Mr. Barach states it should say 1.5% of unpaid balance. The Board agrees to this addition. Mr. Amentas motions to advertise the Ordinance re-enacting and

amending the East Fallowfield Township Solid Waste Ordinance regulating storage and disposal of trash and recyclable materials pursuant to the Second Class Township Code draft date of October 12, 2009 and on page 5 Section C 2 penalties amending to read that a service charge of 1.5% per month of the unpaid balance will be added to invoices outstanding over 30 days. Mr. Monaghan 2nd. Sharon Scott asks if this is grandfathered and if there is a list of unpaid invoices available to the public. Mr. Amentas replies that when the Ordinance is enacting the interest will be given to unpaid balances. Mr. Barach replies that in the past the unpaid balances are sent collections and they charge their own fee and remit to the Township whatever is contractual. Vote: Unanimous.-

Zoning Ordinance Change – Mr. Pompo states this change is for the Height requirement in the Zoning Book under R3 that should have been 3 stories or 35 feet but it has 2.5 stories and 30 feet and he was asked to look at the definition of maximum height to see whether it is protective of the Township and found that there are some things that need to be changed such as the terms are not consistent as defined in the Ordinance with the terms that were actually used in the Ordinance and height of structures was not addressed and found that the definition of height itself and how you measured it was not that precise. Mr. Pompo proposes a change in the definition of deleting building height and changing it to maximum height making it clear that would address both building and structures and points out that there were already 2 provisions in the Ordinance that exempt Agricultural structures and cell towers set their own maximum height regulations. Mr. Pompo had a definition for how you define the height if you have a building that's circular and you have not less than 10 points that you measure the height for a circle and Chris Della Penna points out that it's better to use a number that's equidistant like 8 or 16 and suggests to rename Maximum Height to Height Maximum to be able to look it up easier. Mr. Della Penna asked about installing wind turbines and Mr. Pompo says unless a wind turbine is considered an Agricultural Structure this Ordinance would not allow a wind turbine higher than 35 feet. So someone would have to go to the Zoning Hearing Board to put a wind turbine on their property. Mr. Monaghan says it too early to be talking about wind turbines. Mr. Barach says he thought it was half way up the roof rafters to grade. Mr. Barach asks Mr. Della Penna what his definition is of the building height. Mr. Della Penna replies that there is no definition. Mr. Pompo states that in a legal fashion there is none because the term building height is defined that the term is never used in the Ordinance, the term maximum height is used so if one wanted to press a legal point the definition in the Ordinance is almost meaningless because those terms are not used but the actual definition that's there for building height doesn't have the specificity of telling you where you measure the height from at the ground and to where you measure the height at some point at the top of the building or structures.

Mr. Barach states that it's always the mid-point roof rafter from the grade and wants to make sure it's consistent with what the Zoning says in terms of the height definition. Mr. Pompo states that if you have a gable or hip roof then it's the mean height between the eave and the ridge and for a Mansard roof it's the depth line. Mr. Barach asks if the height of the structure for a gable roof 45 feet. Mr. Della Penna replies if assuming you have a flat ground, the definition would describe to if you have it on a slope. The top of your 2nd floor might be 20 feet and then the middle of the roof would be another 5 feet. Mr. Barach replies it's not going to work. You have to be practical on how it's being defined so it will work. 35 feet of the midpoint of a roof truss will allow a house to be built without a 40 or 42 foot height. Mr. Della Penna replies that's correct. Mr. Barach states he wants it to be clear in defining the 35 feet if it's a 3 story house it's from grade up to the mid- point of the roof truss. Mr. Pompo asks if with this kind of definition for that type of roof is 3 stories going to be accommodated. Mr. Della Penna replies assuming the first floor is at ground level and between the 1st and 2nd floor is 10 feet, 20 feet and 30 feet. Mr. Barach asks if you're going up to the ridge or the mid- point of the truss. Mr. Della Penna replies he is

going up to attic ceiling joist. Mr. Barach says as long as its worded as the mid-point. Mr. Pompo replies that it's defined as the new height between the eaves and the ridge. Mr. Amentas asks the Board if they would like to discuss Mr. Della Penna's comments that are attached to the Ordinance that have not been implemented to the Ordinance now or at the next workshop. The Board agrees to make a motion tonight.

Mr. Amentas motions to advertise un-numbered Ordinance amending Sections 201 and 703.4.A of the East Fallowfield Township Zoning Ordinance of 2002, as amended to delete the definition of Building height and to substitute the definition of Maximum height and to allow a maximum height of three stories or thirty-five feet in the R-3 Residential district. Ordinance Document draft date of October 3, 2009 making the change under Section 2 replacing the term Maximum Height with Height, Maximum and instead of measuring the vertical distance at not less than 10 equal distance points, measuring at 8 equal distance points. Mr. Monaghan 2nd. Vote: Unanimous.

Street Opening Draft Ordinance 10/9/09 – Mr. Pompo emailed the board a proposal to add a sentence to Section 22 regarding Mr. Amentas' comment regarding consideration for driveway permits not being required to have a security deposit or insurance requirements to not unduly tax residents who need to put in a driveway. The provision would read that the provisions of Section 19 security deposit and Section 32 insurance shall not apply to an applicant for a driveway permit serving an existing single family residence. Mr. Pompo's recommendation is to limit the exemption to existing single family residence is that for those existing home owners they are not taxed if they need to put in an additional driveway or enlarge an existing driveway but for any new residents where there is a vacant lot you would should have the ability to place those requirements for example the 4 undeveloped lots in Stone Creek and the Township already took over the road so there will be a builder putting in the driveways.

Comments were also received from Chris Della Penna and Rob McLarnon. The Board agrees to table until the November 10th workshop.

Mr. Monaghan asks if the fees will cover the Engineer review fee. Mr. Pompo replies that he likes to be as specific as possible and maybe an engineer fee could be added.

LEGAL ISSUES:

Baron Crest – Mr. Della Penna explains that he met with 2 contractors with a list of items and called them yesterday to see where they stood on if they want to do the job. They both said they do. Mr. Amentas states that if the 2 contractors do not return bids in a couple of weeks to move on and look at other contractors.

Mr. Barach reports that the seized Baron Crest money is about \$75,000.00 with them owing the Township approximately \$10,390.00. Mr. Barach also does not see the Howell/Kline invoice on this statement. There is approximately \$62,000.00 left.

Manchester Farms – Mr. Amentas explains that he is working with Dewey Homes to resolve the water collecting, pooling, and infiltrating there of their property. Mr. Della Penna explains that Dewey Homes informally submitted a draft version of a plan to correct the problem out there. Lot #103 submitted a permit to do a pool and they submitted a plan to revise the swale that comes along the rear of the lot and the swale is rapped around the house and immediately behind the house. Mr. Barancas states their property is on disturbed swale and has cracks in the foundation and has asked them to move the swale that wasn't supposed to be in the back of the house when they bought the house and it prevents them from developing the back of the house and the entire ground is completely eroded. Mr. Amentas states he and Chris Della Penna will be meeting with Dewey homes this week and go over their plan and so they can get everything done at one time.

Iacobucci /Providence Hill – Mr. Amentas asks Chris Della Penna if it's feasible for Rouse/Chamberlain to be dedicated by the end of the year and finish the work and address the punch list items. Mr. Della Penna replies that he thinks they can physically accomplish the work they have to do, they are planning on paving next week if possible however they will run into the same situation as Stone Creek in missing the Oct. 31st cutoff point with PennDot to receive Liquid Fuels and the developer had to pay the money and it's up to the Board to accept dedication. Mr. Amentas asks Chris Della Penna to tell Iacobucci about the cutoff date for Liquid Fuels. Mr. Pompo states the two monetary issues they are probably thinking about is not having the obligation of winter maintenance and to have a release of their final obligations. Whatever you do for the road if they feel that they have completed the improvements there is a provision in the MPC law that they trigger which requires the Township within certain time frames to confirm or not confirm that the work has been done and then if it is confirmed that the work is done then the Township has a obligation to release their funds and this is separate from the obligation to take the roads. Mr. Monaghan asks if it's valid if there are areas where the grading is not done per plan. Mr. Pompo replies that you have to look at each issue as it is. Mr. Pompo states his law firm has been contacted by Iacobucci counsel to set up a conference call with them and Mr. Della Penna so as to what the legal requirements are for dedication. Mr. Della Penna states he is in the process of reviewing the as built plans and the legal descriptions of the roads and generating a punch list next week so everybody will know what they need to do with exception of any comments from the Home Owners Association. Mr. Barach states that you should make sure that everyone is satisfied and have the HOA sign off of what issues they may have. Mr. Della Penna replies that some of those issues may have nothing to do with dedication.

Mr. Brazy states that some of the home owners hired their own engineer and there is an online pole, neighbors were sent comment cards. Mr. Brazy asks for Mr. Della Penna's punch list to compare with theirs. Mr. Brazy spoke with Rouse/Chamberlain today and they are talking about delaying finalizing the basin issues until next Spring.

Mr. Amentas asks other than plowing the roads what significance is dedicating the roads so as to the developers' obligation to the Township. Mr. Pompo replies that typically once the improvements are done, approved and accepted for dedication there is nothing left to hold security.

Mr. Della Penna asks if there is a maintenance bond. Mr. Pompo replies there is an 18 month maintenance bond and 15% for all the dedicated improvements and the maintenance obligation is to secure the structural integrity of those improvements, it's not to pay for maintenance.

Mr. Pompo states that the Township may lose their monitory hold over the developer.

Mr. Amentas asks if that coincides with the full release of the remaining escrow. Mr. Pompo replies no and states that it's not relevant in the Township decision any defects that may be solely to the house or houses themselves.

162 Doe Run Road – Mr. Della Penna explains that the PennDot plans show their right-a-way as 33 feet which is 16 1/2 feet from the center of the road so the pipe that runs under the Jackson property is not in the PennDot right-a-way or Township property it is entirely private property. Mr. Monaghan asks if anyone knows who installed it. Mr. Della Penna replies no.

Mr. Amentas asks whos property is where the pipe ruptured. Mr. Della Penna replies that he does not know and explains that there are 6 properties that the pipe runs through the front yard and Jackson's property appears to run underneath the portion of the house itself and the section that ruptured is 2 properties down. Mr. Amentas asks if the legal obligation the homeowners.

Mr. Della Penna replies that he did not pull the deed. Mr. Pompo replies that there might be other property owners that also have responsibility and it doesn't appear that the Township has any responsibility. Mr. Amentas asks if it's an issue that affects public safety of the Township residents can the Township intervene and have the private landowner to do something.

Mr. Pompo replies that if there is some condition of the land there could be a nuisance to a child running across it there maybe provisions under the Building code that could be sited to correct the dangerous situation. Mr. Barach asks if the pipe broken under Mr. Jackson's property or if the pipe above his property was repaired would Mr. Jackson still have a problem. Mr. Della Penna replies that he didn't go into his house so he doesn't know what his problem is. Mr. Barach asks even if the pipe was fixed above Mr. Jackson would have to go to the expense and reroute the pipe around his foundation and run it to his other neighbor so if the Township interceded and made somebody repaired the pipe up his property would he still have a problem. Mr. Della Penna replies that's correct but there is more of a problem below him that above him. Mr. Monaghan states that Mr. Jackson's house is the one that put on an addition on the back and the pipe was there and in front of the garage is where the pipe is broken and out of line so water comes in and some goes down. Mr. Monaghan states that he will talk to Tony Sirna to see if there is any County help for this situation. Mr. Amentas states that as a public entity the Township should probably address this as a public nuisance and address as necessary.

FINANCIAL REPORT: Mr. Barach on behalf of the Board of Supervisors

Mr. Barach moves that the amount of \$242,036.37 from the General Fund, \$26,676.84 from the Liquid Fuels account, \$15,026.38 from the Escrow Account to be approved to be expended and transfers from one account to another for payroll. Sharon Scott asks what is the \$5,667 payment to Pete Mango for. Mr. Barach replies that this is for his severance pay that was authorized by the Board. Sharon asks about her office and police dept. right-to-know requests.

Mr. Barach asks if she received a letter regarding this. Mrs. Scott replies no. Mr. Amentas tells Mrs. Scott she will have an opportunity to speak at the end of the meeting.

Mr. Amentas calls for a vote to approve Sept. invoices as presented. Vote: Unanimous.

POLICE DEPARTMENT:

Pete Mango asks the Board to approve the police Records Management Systems with CODY Computer System Inc. for \$15,000.00 with the grant paying \$10,000.00. Mr. Pompo has a comment on the licensing. Mr. Barach asks if there is a copy of confirmation of the grant.

Mr. Mango replies through email and verbal confirmation and they are not moving until the money is received. Mr. Barach asks if the \$2,267 license fee a contractual fee for a certain number of years or is it a discretionary fee. Mr. Mango replies the 1st year the support is included in the \$15,000 after you will have to pay that amount to continue with their support and license.

Nancy Baker says the \$2,267 is a fixed fee and should never increase for the life of the contract.

Mr. Barach states normally it should be split so that you may be obligated to pay the license fee but you don't have to buy into the support. Mr. Pompo states that the agreement states that upon termination of the agreement the Licensee shall immediately discontinue all use of the licensed software and at CODY's option return all copies of the Licensed Software and other CODY provided materials. Mr. Barach has concerns with whatever that fee is quoting that we have a cap on it in the future for increases on an annual basis. Nancy Baker replies that in the contract it address what your paying for license and they are only purchasing 2 licenses so the \$2,267 per year is for support and not for continuing the license. Mr. Pompo states it says CODY shall have the right to modify the support and/or ARM fees upon not less than 60 days prior written notice to Licensee. Mr. Pompo states the agreement should change to say it's a fixed fee.

Mr. Barach states he supports the system but has concerns with the terms.

Mr. Pompo asks that the indemnification clause be removed in the licensee agreement in the contract agreement is ok.

Mr. Amentas comments that on page 2 License it says Subject to the terms and conditions hereof, CODY hereby grants Licensee a non-exclusive, non-transferable, limited licensee to have up to the maximum number of concurrent user sessions, named users, employees, agents or contractors

of Licensee, set for the in the Proposal and the proposal is not attached. Exhibit A is called a proposal. Nancy Baker replies that it is the color coded copy at the end of the packet.

Mr. Barach asks if this is a mobile system. Mr. Mango replies no.

Mr. Barach asks if the total cost the \$15,000 plus the \$2,267.00. Nancy Baker replies the \$2,267.00 is included in the first year and the only additional cost will be the onsite server from ComNet. The Board supports the system but would like to read over the information further and tables this until next month.

PARK AND RECREATION:

The Park & Rec. summary is in the back room. Mr. Amentas pulls the name Lori Hafer for the \$100 prize from the Park Day email entry.

PUBLIC WORKS DEPARTMENT:

The September 2009 road and vehicle report is in the back of the room.

The September 2009 recycling report is in the back of the room.

HISTORIC COMMISSION:

No report

EMERGENCY SERVICES:

The September 2009 EMS report is in the back of the room.

The September 2009 Pomeroy report is in the back of the room.

UNFINISHED BUSINESS:

Township Newsletter Account – Tabled until the November 24, 2009 meeting.

NEW BUSINESS:

\$4,200 trash refunds – Mr. Barach says has not confirmed the dollar amount and the refunds should be looked at on a case by case basis so the motion should not read a dollar amount just for overpayments of trash payments. Mr. Amentas motions to refund overpayments of 2009 trash payments. Mr. Monaghan 2nd. Sharon Scott opposes refunds unless requested. Vote: Unanimous.

Metro Bank account – Mr. Amentas motions to close the Metro Bank account with a balance of \$152.75. Mr. Barach states the account has had no activity for the last 12 months.

Mr. Monaghan 2nd. Vote: Unanimous.

Central Desktop - Tabled until next month.

Regional Appeals Board – The Board gives approval to ask Rob McLarnon to be on the Regional Appeals Board.

Mr. Barach explains that the Township owes the former auditor approximately \$1,700 that is questionable. The new auditors have to contact the former accounting firm for certain information and suggests writing a letter indicating the Board will pay the balance and therefore you are obligated to cooperate with the Township Accounting Firm. Mr. Amentas comments that if the check is cashed then he accepts the terms of the letter. Mr. Monaghan moves to pay Maulo Inc. the unpaid balance. Sharon Scott wants invoice detail. Mr. Barach replies it's from July and the issues are the rate and hours. Vote: Unanimous.

Mr. Monaghan recognizes all the volunteers and employees that help with the Park Day and also has written letters.

Mr. Monaghan states that there will a meeting with the Fire Companies regarding their distribution money and if there will be an increase. Glenn Colyer asks if they are all paid. Mr. Barach replies that the checks have been cut and mailed.

PUBLIC PARTICIPATION: 30 minute total time

Conrad DeAbreu – Status on the Dalusio issue. Mr. Amentas replies that this will be discussed at the November meeting.

Bob King – 1) Status on the budget. Mr. Barach replies that he is approximately 75% of what he has to do in coordinating all the departments. 2) Status on the police contract. Mr. Amentas replies that there have been a couple of meeting and an arbitrator has been selected and should the terms not be agreed upon sometime in January it will go to arbitration. This is a legal and personal matter and cannot be discussed further. 3) Status on Weavers Mulch. Mr. Amentas replies this is not settled and it has never been in ligation. The Board has not decided on what to do with this matter but will ask Mr. Weaver to give the Township certain information concerning his operations to insure that what he is doing is not adversely negatively affecting the public. The Conditional Use issue is settled, he was also given a building permit from Don McDermott, former building inspector. 4) Status on Training Center. Mr. Amentas replies that it's still in ligation regarding the left turn lane where they are trying to buy land from Jim Sisk. If they cannot buy the land then the Board will decide if they will insist on this condition. Mr. King asks if there is a legal cost limit. Mr. Amentas replies that you really can't cap a limit on legal fees but does not believe there is much more the Township needs to spend money on and that if the Township cannot come to a resolution then it goes before a Judge for a hearing to make a determination. Mr. King asks if it doesn't go through is all the money paid lost. Mr. Amentas believes those fees are not reimbursable. Mr. Monaghan comments that if it does go through there is still a potential for a police facility. Mr. Amentas believes that Township will get reimbursed for the Conditional Use application hearings, the appeal and the ligation are reimbursable.

Glenn Colyer – 1) Is the training facility being put in S. Coatesville. Mr. Monaghan replies that he hasn't heard that. 2) Chief sick pay. Mr. Barach replies that sick pay was not paid.

Sharon Scott – 1) Will prove that Lamb law firm is double dipping. 2) Comments on Training Facility noise and air quality and opposes passing this. 2) Her public safety regarding her harassment issue with Buddy and Chad Rhoades.

Glenn Colyer – Did anyone go out and look at the Rt. 82 pipe. Mr. Monaghan replies that Mr. Della Penna went out and there is no record that this is a PennDot pipe. Mr. Monaghan will call Tony Sirna to see if there is any Emergency Funding out there.

Bill Montgomery would like the speed limit on Hephizbah Hill Rd. be reduced from 35 to 25. Mr. Monaghan replies that this can be forwarded to Chief Masterstefone.

Bob King – Negotiations with the Beagle Club. Mr. Monaghan replies that Chris Makely made a \$900,000.00 offer to the owners of the Beagle Club and there has not been any response.

ADJOURNMENT:

Mr. Amentas motions to adjourn at 10:15 pm. Mr. Monaghan 2nd. Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary