

**EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
December 22, 2009
Approved
6:30 PM**

CALL TO ORDER, SILENT MEDITATION AND PLEDGE OF ALLEGIANCE

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

APPROVAL OF MINUTES:

Mr. Broadbent moved to approve the November 24, 2009 minutes as presented.
Mr. Makely seconded. Vote: Unanimous. Mr. Monaghan abstained.

Mr. Broadbent presented Mr. Monaghan with a plaque on behalf of the Board for his years of service as a Board member. Mr. Monaghan thanked the Board.

There was an Executive Meeting on November 24, 2010 at 11 PM following the Board meeting regarding personnel issues and contract issues.

Public Hearing

Mr. Pompo conducted a combined Public Hearing for the Day Care Home Zoning Ordinance Amendment and the Height Zoning Ordinance Amendment. Both Hearings had been advertised in the Daily Local News. (proof of publication being received.) The Chester County Planning Commission reviewed both Ordinances, as required, and submitted recommendations on both of the Ordinances.

A recommendation was discussed and made at the last meeting to change the number of points that one measures to 6 (six) for the height for certain roof elements.

Mr. Pompo reviewed the Planning Commission recommendations for the Day Care Home Ordinance and they were not changed in the advertisement. Mr. Pompo asked if the Board would like to consider the two changes that have to do with the original draft language which came out of the standards for Day Care Centers. Section C 5 had a standard that "The use shall not emit noise, odors or light which is noticeable at the property line" and Section C 7 stated "no storage or display of goods shall take place out of doors. No interior display of goods shall be visible from the outside of the dwelling." The Planning Commission asked how do these relate to a Day Care Use. Mr. Pompo's response was that these are the same standards that apply to Day Care Centers.

Mr. Broadbent recommended adding to C7 "no storage or display of goods shall take place out of doors outside of Day Care hours." Mr. Monaghan asked for an example of "goods."

Mr. Broadbent replied a "portable swing set."

Mr. Amentas asked what is the dictionary definition of "good" and does a "good" encompass more than an item for sale. Mr. Amentas also stated the term "good" is not the best term to use.

Mr. Pompo suggested using "play equipment or materials."

Mr. Makely asked if the Township knows the Home Owners Association by-laws.

Mr. Broadbent replied he believes they stipulate any business needs to have the state and township approval. Mr. Broadbent would like to see "no storage or display of play equipment or materials shall take place out of doors before or after dark."

Mr. Barach asked if the Day Care isn't open the weekends would this still apply. Mr. Pompo stated if the concern is about appearance we could restrict the outdoor play equipment and materials from the front yard of the home. In 8 D the play area is limited to the rear set back line of the dwelling so there should not be any playing in the front of the house.

Mr. Makely asked who is the enforcement agent. Mr. Pompo replied that the Township Zoning Officer is. Mr. Broadbent stated he doesn't want to restrict the Day Care hours on the weekend. Mr. Amentas stated if you live on a smaller lot the kids playing outside will always be "noticeable" so the language of "noticeable at the property line" is not functional. Mr. Amentas also commented on what does the noise reference. Mr. Pompo replied that you could reference the performance standards in the Ordinance which is the decibel base in Section 1810 of the Zoning Ordinance.

The Board is in agreement to remove "odors and light" and replacing "noticeable" with the reference to the appropriate noise Ordinance. C5 will read, "the use shall not emit noise which violates the performance standards of Section 1810 of this Ordinance."

Bill Montgomery asked is the Township assuming that Day Care Operators have no children of their own. Mr. Broadbent replied no. Mr. Pompo closed the public hearing.

Mr. Broadbent moved to adopt Ordinance 2009-08 to allow Day Care Home as a residential accessory use with the changes as noted during the public hearing. Mr. Monaghan seconded. Vote: Unanimous.

Mr. Broadbent moved to adopt Ordinance 2009-09 that amends the Building Height and substitutes the definition of maximum height in the R3 residential district and during the public hearing there were no changes to the Ordinance as advertised. Mr. Monaghan seconded. Vote: Unanimous.

Jane Dorchester, historian, presented the final version of the Historic Preservation Inventory mounted as well as on a CD. The Atlas will be delivered in January. Mr. Broadbent asked if the Atlas can be put on a CD. Jane replied that she will ask.

Mr. Monaghan read the certificate that was presented to the township at the June dinner. This is a certificate of achievement to a Municipality from the Chester County Historic Preservation Network in partnership with the County of Chester extending their congratulations to East Fallowfield Township and their Historical Commission for the completion of the East Fallowfield Township Historic Resource Atlas, dated the 24th day of June 2009.

CITIZENS BY REQUEST:

David Oleszek of 147 Bridle Path Lane Lot 66, regarding Manchester Farms: Mr. Oleszek presented the Board with an informational packet and pictures on his concern with his neighbor's property of Lot #67. Mr. Oleszek stated either the owner of Lot #67 or the builder brought in construction vehicles to re-do their property and the trucks flattened out a hill on his property and destroyed the water basin shown in the pictures. The trench cut through the water basin which is believed to be illegal by the Township Ordinances and is illegal by the Home Owners Association (HOA) Policy. You can see the water run-off in the picture that was taken in late winter to early spring of last year. When the 3 workers came out, possibly hired by the builder, to fix the landscaping they did not have a site plan with them. Several pictures are showing the workers filling in the water basin with dirt.

After contacting Ryan, president of the HOA, Mr. Oleszek stated he rec'd a letter from Ryan that stated he spoke with Joe Sciandra, Dewey Homes, who is in charge of all the warranty issues and claims. The email on 1/29/2009 says "Thanks David I've confirmed Dewey has made the changes on lot #67 to make the grading according to the plans approved by the Township."

Mr. Oleszek also stated he has an area in his back yard that is sinking from over 1 ½ years of water and snow erosion.

Mr. Broadbent responded by saying the township has received a fax from Dewey and asked Chris Della Penna to give his update.

Mr. Della Penna stated he went out in August and saw that there was a berm on Lot #67 and had a small cut through that allowed water to pass straight through with minimal amount of infiltration and sent his report to the Township. In the prior week's there were meetings with Mr. & Mrs. Holst, Lot #67, where they explained what happened with all the re-grading issues. In speaking with Mr. Sciandra he said Dewey is willing to make the corrections but not sure what the Township wants. Mr. Della Penna stated there are 3 options; 1) to scratch the surface 2) to till it. 3) to put a seepage bed in.

Mr. Pompo stated that if Mr. Oleszek is damaged from this incident then he could possibly have a claim against both the neighbor and the builder. Since the builder opened the trench and essentially threw water onto the property. This would not be a township claim. Mr. Amentas stated that there are actions that the Township can take to insure that Dewey does what they are offering to do. Mr. Della Penna will follow up with Dewey.

Sharon Scott of 325 Hephzibah Hill Road commented on her police and 911 calls from August 10th and 12th incidents. Mr. Broadbent replied that an incident report was filled out and mailed to her. She also stated that she would like to pursue this matter. Mr. Broadbent stated to contact the District Attorney. Mrs. Scott said she will pick up a copy of the report at the police station.

Mrs. Scott also asked about her 3 right-to-know requests. Mr. Barach replied that a letter was to be sent to her. Denise Miller stated that a letter was sent regarding the requests. Mr. Amentas asked if one of the letters that was rejected by Mrs. Scott, had to do with ambiguity on one of the requests.

Denise Miller stated one response was sent via regular mail and the police request was sent certified mail and was refused. Mrs. Scott replied that she received a letter stating that the township did not have a copy of the request. Mr. Broadbent stated the township is trying to get the requests fulfilled but one of the requests was not clear and a letter was sent out stating that. The Board will go over the requests.

CORRESPONDENCE:

A 2010 Certified Master Composter class form is in the back room for residents to take.

S.A. Macanga overage: Mr. Della Penna explained that the job was put out to bid with the unit price amount for any unforeseen additional work needed. After the milling was done they found some additional soft areas so they put some additional materials down and did some different techniques to prepare the road. Mr. Broadbent moved to approve the overage of \$13,048.85 for the S.A. Macanga contract for West Chester Road to be paid out of liquid fuels.

Mr. Monaghan seconded. Vote: Unanimous.

Providence Hill escrow releases: Mr. Broadbent asks Mr. Della Penna if there are any issues that the township needs to be aware of. Mr. Della Penna replies that there are some issues with the trails and a couple of basins are not draining so he held money held back for these reasons. They are still moving forward towards dedication. Mr. Barach would like to make sure the office checks have been made to see if all invoices have been paid and make a check list sheet.

Mr. Broadbent asks how you allocate time over the 3 phases. Mr. Pompo stated for this particular project it would be just the main development not by phase related. Mr. Barach stated that developments, projects, etc. are now given a number to use in the system.

Mr. Broadbent states each motion will be to approve the release and for the office not to transmit the funds until the billings have been reconciled. Mr. Barach suggested the release of \$182,236.00 and the \$146,972.11 and hold the \$27,946.88 with the contingency of the account checks being completed.

Mr. Broadbent moved to release Providence Hill Phase A escrow release #16 in the amount of \$182,236.00. Mr. Monaghan seconded. Sharon Scott asked the identity of the builder.

Mr. Broadbent replied Rouse Chamberlain. Vote: Unanimous.

Mr. Broadbent moved to release Providence Hill Phase C escrow release #8 in the amount of \$146,972.11. Mr. Monaghan seconded. Vote: Unanimous.

Mr. Broadbent moved to release Providence Hill Phase B escrow release #11 in the amount of \$27,946.88 contingent upon the office reconciling the billing for all legal and engineering invoices. Mr. Monaghan seconded. Vote: Unanimous.

PLANNING COMMISSION:

The Planning Commission recommended Garth Monaghan for a 2 year term (2010-2012) and Fran Digian for a 4 year term. (2010-2014.)

Mr. Broadbent moved to accept the Planning Commission recommendation to appoint Garth Monaghan for a two year term for 2010-2012 and Fran Digian for a 4 year term for 2010-2013.

Mr. Makely seconded. Vote: Unanimous. Mr. Monaghan abstained.

The Planning Commission recommended adding Ned Stombaugh of 945 S. Caln Road into the Agricultural Security Area for 10.0 acres. Mr. Broadbent moved to accept the Planning Commission recommendation to add Ned Stombaugh of 945 S. Caln Road into the Agricultural Security Area. Mr. Monaghan seconded. Vote: Unanimous.

The Board thanked Deborah Rush for her years of service.

SOLICITOR REPORT:

2010 Preliminary Budget: Mr. Broadbent moved to approve the preliminary 2010 budget for East Fallowfield. Mr. Barach seconded. Sharon Scott said it showed Public Works getting a 10% raise and the police getting a 5% raise. Mr. Barach replied that the increase is for the highway supervisor as well as all employees, including police.

Mrs. Scott asked about the \$308,000 coming out of the capital fund to take care of the short fall. Mr. Barach replied that it's labeled as either the capital fund or other sources of revenue and the township doesn't know what will happen next year, the budget is based upon performance that was seen from this year being the same next year with respect to revenues. If the township is able to get additional revenues then the short fall will be made up that way. Glenn Colyer asked if the police contract has been resolved. Mr. Broadbent replied it is not. Vote: Unanimous.

Ned Stombaugh: Mr. Broadbent moved to adopt Resolution 2009-18 adding Ned Stombaugh of 945 S. Caln Road parcel #47-6-25.1 for 10/3 acres in to the Agricultural Security Area.

Mr. Makely seconded. Vote: Unanimous.

LEGAL ISSUES:

Website Contract: Mr. Pompo pointed out about the payment due, the early termination penalty is not appropriate, and a \$10 penalty of monthly hours not used is not fair. Mr. Broadbent moved to approve the 2010 website contract, as an extension to the existing contract with Fairview Design with the provision that item #6 is changed to 30 days of receipt instead of 14 days, item

#8 is changed to add “not yet paid” after “in excess of the monthly contract”, and not yet paid will be paid at \$60 per hour instead of \$70 per hour. Mr. Makely seconded.

Mr. Broadbent added to his motion the change to #8 “to terminate the contract at the end of any month by either party.” Mr. Barach asked about the past rational. Mr. Broadbent replied there are months where the website service is not used and months where it is used a lot. Mr. Barach stated that if the township is paying for the website then it should be used. Mr. Barach doesn’t agree with losing the unused hours at the end of the year because they were prepaid. Mr. Amentas suggested making a limit allowed to be rolled over. Glenn Colyer asked who is responsible for putting information onto the website. Mr. Broadbent replied the township. Vote: Unanimous.

Multi-Municipal Ordinance/Agreement: This is a study to identify future growth areas.

Mr. Monaghan made a motion to move on with this agreement for the purpose of discussion. Mr. Broadbent seconded. Mr. Amentas stated that he respects the study but does not recommend signing the agreement as written. Sharon Scott agrees with not signing the agreement. Mr. Bob Grabus, representing the study, asked for a letter stating the Township will participate. The Board will get back to Mr. Grabus with ideas on the agreement. Mr. Monaghan withdraws his motion. Mr. Amentas made a motion to accept the Multi-Municipal Agreement. Motion fails due to lack of second.

Public Fire Hydrant Agreement: Mr. Broadbent moved to approve the Public Fire Hydrant Agreement for PAWC. This review has been reviewed by Dennis O’Neill, sewer consultant, Jim Reagan, fire marshal, and Tony Sirna, emergency coordinator. Mr. Monaghan seconded. Mr. Monaghan asked if the hydrants were placed where the township felt they needed to be and has PAWC ever provided the township with the hydrant pressure. Mr. Reagan replied they were placed correctly and reports have never been given. Mr. Monaghan asked if the motion can add to get reports on the pressure. Mr. Pompo replied because this is regulated by the PEC and complaints on lack of information being given are made to the PEC office. Mr. Amentas stated that the water company should indemnify the applicant from any claims, loss or damage that occur as a result of installation, operation, performance of a hydrant. Mr. Pompo agreed and is concerned that once the fire company starts using the hydrant, then there needs to be an assertion that this indemnity applies. Mr. Pompo stated that developers could have signed these kinds of agreements as part of their projects where water lines were being extended and doesn’t recall that the township signed this for the portion of the system that was previously owned by the City of Coatesville Authority.

Mr. Broadbent withdrew his motion and tabled this until the next meeting. Mr. Broadbent asked Mr. Pompo to draft a letter. Mr. Barach asked if other township agreements are public record. Mr. Pompo replied they are public but cannot think of any where PAWC provides this service.

Township Manager/Treasurer: Mr. Broadbent moved to hire Jill Bukata as a full time Manager and Treasurer pending resolution of training time and compensation. Mr. Makely seconded. Mr. Barach asked if there is a time frame. Mr. Broadbent replied that it will be discussed in the Executive meeting after this meeting. The Board adjourns for an Executive meeting to discuss the motion further.

After the Executive Session to work out Ms. Bukata’s employment details Mr. Broadbent amended his motion to add the start date of January 4, 2010.

Sharon Scott asked if Ms. Bukata has been a township manager before and about her experience. Mr. Broadbent replied the training time will be directed by the board and she has minimal municipal experience, she has good business administrative back ground and a strong financial background. Mrs. Scott asked if Ms. Bukata will be replacing Rosemary. Mr. Broadbent replied no.

Vote: Unanimous.

The Board excuses Mr. Pompo at 9:55 p.m. from the meeting.

FINANCIAL REPORT:

Mr. Barach moved to authorize the expenditure of funds from the general fund of \$150,619.22, Park Fund \$ 280.00, escrow fund \$1,886.63, Liquid Fuels \$6,250.70, and the payroll transfer of \$68,438.60. Mr. Broadbent seconded. Vote: Unanimous.

Mr. Barach asked about the AIG situation. The Board agreed to discuss in the Executive meeting afterwards.

POLICE DEPARTMENT:

The November police report is in the back of the room.

S. Bailey intersection report: Officer Porter reported that the S. Bailey/W. Chester intersection is a multi jurisdiction intersection and a small portion on the West Side where S. Bailey intersects is owned by East Fallowfield. PennDot would have to do a road study. The Board asks Officer Porter to work with Mr. Hines of West Bradford and do a joint letter to PennDot.

Network Server: Mr. Broadbent explained he is still working on prices and will have an update at the January 4th meeting.

4 wheel drive vehicle: Officer Porter reported that at the last snow storm 2 police vehicles were out of commission. Mr. Barach asked if this vehicle was budgeted for. Officer Porter replied that the vehicle in the budget is a different vehicle. Mr. Barach asked if they need 2 vehicles for next year. Officer Porter replied they need 2. Mr. Broadbent asked what is the second vehicle that they need.

Officer Porter replied it will take place of the second oldest car in the fleet. Mr. Makely asked for Officer Kevin Simmons report for that day. Mr. Broadbent asked for the vehicle report before they appropriate funds for the second vehicle purchase.

PARK AND RECREATION:

The P&RC recommended appointing Jay Hunter to the P&RC for the 2010-2014 term.

Mr. Broadbent moved to accept the P&RC recommendation to appoint Jay Hunter for the 2010-2014 term. Mr. Makely seconded. Vote: Unanimous. This will leave one vacant position.

Buck and Doe Run Watershed Conservancy: Mr. Broadbent motioned to appoint Jan Bowers to the Buck and Doe Run Watershed Conservancy. Mr. Monaghan seconded. Mr. Monaghan stated that Ms. Bowers has been attending the meetings regarding the Watershed but a Supervisor should be attending also. The goal of the Conservancy is to help make the Township Ordinances along the Brandywine consistent with each other. This role is for an elected official.

Mr. Broadbent replied that the P&R liaison can bring it back to the Board. Sharon Scott asked if this normally a Supervisor position. Mr. Monaghan replied some members are supervisors. Hugh Lofton and his wife are very involved in the Watershed Conservancy. Vote: Unanimous.

Patriot Landmark brick: The P&R would like to insert the brick flyer in the township newsletter.

PUBLIC WORKS DEPARTMENT:

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

The October recycling report is in the back of the room.

Chris Short: Mr. Broadbent moved to approve Chris Short as a part time snow plower at the rate of \$14.00 per hour, retroactive to December 19th pending a background check. Mr. Makely seconded. Mr. Barach asked if anyone can speak about Mr. Short. Mr. Monaghan replied that Tag has.

Mr. Makely stated that Mr. Short is taking his place as a snow plower. Vote: Unanimous.

Replacement Dump Truck: Mr. Monaghan stated that if they buy an existing truck now, it will not have the mixed fuel requirements that the 2010 vehicles have. Working with the state contract the cost can be over 4 years (\$39,000 per year). Mr. Monaghan asked the Board to authorize Tag to enter into negotiations to order the vehicle and make a decision on the 350 pickup. Mr. Monaghan moved to authorize the public works foreman to put together an order necessary to purchase said vehicle with terms to be determined by the Board at a future date. Mr. Makely seconded.

Bill Montgomery asked about sub contracting. Mr. Monaghan replied that the truck will not be for just plowing. Glenn Colyer asked other than the 350 what is the other truck mentioned.

Mr. Monaghan replied the big dump. Vote: Unanimous.

HISTORIC COMMISSION:

The Historic minutes are in the back of the room.

Mr. Broadbent moved to approve Joe McComick and Garth Monaghan to the 2010-2013 terms for the Historic Commission. Mr. Makely seconded. Vote: Unanimous.

Old Cider Mill: The Historic Commission approved the demolition of the old Cider Mill at 7 Park Ave. with the condition that the ground level footprint of the structure be retained and a small corner of the Mill closest to the stream be left above ground as a permanent indicator.

Mr. Monaghan stated that the Historic Commission inspected the Mill and there are no identifiably artifacts to indicate the age of the building or what its use had been. The contractor was asked if the Historic Commission could have the iron drop lack from the door.

Mr. Broadbent moved to approve the demolition permit for the old Cider Mill at 7 Park Ave.

Mr. Makely seconded. Sharon Scott asked if there is cost of the Township. Mr. Monaghan replied there is no cost to the Township. Vote: Unanimous.

EMERGENCY SERVICES:

The Aug., Sept., Oct., and Nov. Modena fire reports are in the back of the room.

The October Pomeroy fire report is in the back of the room.

The November EMS report is in the back of the room.

UNFINISHED BUSINESS:

Mr. Barach stated that the Township is in receipt of a bill for reimbursement for fire company workers compensation and asked the Board what is their position is on this. Mr. Broadbent replied that the Township has been paying Modena's workers comp.

Mr. Broadbent stated that Denise sent the Board a link explaining what percentage to pay. The Board agreed to pay Modena's workers comp. bill. Mr. Barach stated that the Township may be getting additional bills from other Fire Companies.

SPCA contract: Mr. Makely stated the options are to pay \$100.00 and then \$35.00 per animal or \$4,930.00. The \$4,930 becomes the township animal control officer, who handles State Municipal animal related issues, and Ordinance enforcement, State County rabies law enforcement, 24 hour ambulance services for injured animals, rabies vaccination and dog license clinics, available for 24 hours, limited services for stray boarding contracts, and maintain all the records. If the township does go with the \$100.00 it would be \$35.00 per every animal that is brought to the SPCA by the public works department.

If the Township does not go with the \$4,930 contract then stray cats would be covered by the Board of Health and stray dogs by are handled by the dog warden and the Dept. of Agricultural.

Mr. Broadbent moved to approve the 2010 SPCA contract option #2 for \$100.00 administrative fee and \$35.00 plus \$20.00 drop off fee. Mr. Amentas is concerned that if you get an animal control situation and we don't have someone who is qualified to handle it. Mr. Makely suggested getting a backup person just in case. Vote: Unanimous.

NEW BUSINESS:

5 Jane Street: Mr. Broadbent moved to approve the \$1,000 repository sale by Richard Chennisi for 5 Jane Street. Mr. Makely seconded. Sharon Scott asked if 5 Jane Street neighbors know about the sale. Mr. Monaghan replied that the sale is posted on the property. Vote: Unanimous.

PUBLIC PARTICIPATION: 30 minute total time

Susan Holst of Lot #67 Manchester Farms states that she knows nothing about the emails that Mr. Olesek is referring to. The construction that was done on their home was to fix a leaking basement not work on the berm. The Holst's would also like Chris Della Penna, township engineer, to approve Dewey's plan before they fix the berm.

Glenn Colyer of 41 Park Avenue asked about the Oct. 28th 4:30 a.m. road crew call out. The Board agrees to look into it.

Sharon Scott of 325 Hephzibah Hill Road stated that Anthony Sirna used the emergency vehicle on election day, November 2009, at 11 AM.

ADJOURNMENT: Mr. Broadbent moves to adjourn the BOS meeting at 11 p.m. Mr. Makely seconded. Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary