

**EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
January 25, 2010
Unapproved minutes
6:30 PM**

CALL TO ORDER, SILENT MEDITATION, AND PLEDGE OF ALLEGIANCE

IN ATTENDANCE: Chris Amentas, Chairman; Chris Makely, Vice Chairman; George Broadbent, Member; Mark Toth, Member; Denise Miller, Township Secretary; Bob McClintock, Solicitor. Member Gary Barach and Jill Bukata, Township Manager and Treasurer were absent.

APPROVAL OF MINUTES:

December 21, 2010 minutes – Mr. Amentas made a motion to approve the December 21, 2010 minutes as presented. Mr. Makely abstained. Mr. Broadbent not in attendance. Mr. Amentas and Mr. Toth voted yea. Vote failed.

January 3, 2011 minutes and January 3, 2010 re-organization minutes –No minutes presented.

PRESENTATION:

Christina Basin Restoration and TMDL (Jane Fava) – Mrs. Fava asked the Board of Supervisors to join the Christina Basin Restoration and Total Maximum Daily Load (TMDL) Implementation Plan for East Fallowfield Township. Each municipality will pay an equal share of the Brandywine Valley Associates time for the development of the entire Christina Basin Restoration and a TMDL Implementation Plan; however the plan will be developed in four phases. The first phase of the plan and the model will include over-arching planning that affects all watersheds, and will prepare a component for the East Branch of the Brandywine Creek. Subsequent phases of the plan will prepare components for the West Branch/Main Stem of the Brandywine Creek, Red Clay Creek and White Clay Creek/Christina River. The costs are based on the number of participating municipalities and will not exceed a total of \$2,000.00 without prior consent of the municipalities. \$500.00 is the first payment due. Mrs. Fava stated that the rain garden in the township park will be compiled for the Christina Basin Restoration. This plan will be watershed based and portions of the plan can be used as the TMDL implementation plan for the municipal MS4 requirements. Mrs. Fava stated that 25 Municipalities have already joined. Mr. Makely asked if Modena, South Coatesville, and Newlinville have joined yet. Mrs. Fava replied that she will be talking with South Coatesville and Newlinville next week and is having trouble getting in touch with Modena Borough. Mr. Amentas stated that the board would like to review this information more and will get back to Mrs. Fava.

S.A.V.E (John Gaadt) – Mr. Gaadt stated that he has been working with Vince Pompo in conjunction with the organization S.A.V.E. in preparing model ordinances using a U.S. Department of Transportation Technical Assistance Grant. Seven municipalities are impacted by the AES Sparrows Point Mid-Atlantic Pipeline expansion project and require four ordinances dealing with surface land uses affiliated with pipelines, street opening standards, standards for new development in proximity to pipelines, and revisions to municipal comprehensive plans. Mr. Gaadt stated that East Fallowfield Township already has a street opening ordinance and asked the Board to consider the other three ordinances.

CITIZENS BY REQUEST:

Dave Thomas – Mr. Thomas asked the Board to dedicate Wagner Lane to the township. Mr. Amentas asked if Mr. Thomas owned Wagner Lane. Mr. Thomas replied he still owns 2 of the 6 lots on Wagner Lane. Mr. Wagner also stated that there is already security set up with the township office. Mr. McClintock stated that it may be required to get the other owners to give up their potential ownership of Wagner Lane. Mr. Amentas directed Mrs. Miller to ask Mr. Della Penna, township engineer, to research what the township has to do to take dedication of Wagner Lane.

Tony Sirna – Fire Company Consolidation – Mr. Sirna stated that Atglen, Parkesburg, and Pomeroy Fire Companies have formed a consolidation committee. The purpose of the committee is to review how to consolidate with the hope of providing better service and containing costs. The state has recommended that each municipality sign a resolution to consolidate. Mr. Sirna also stated that Highland, Alglen, Parkesburg and Sadsbury already signed a Resolution. Mr. Makely asked what the \$2,500.00 on the resolution is for. Mr. Sirna replied that the fire companies will pay the \$2,500.00 for future services they may need. Mr. Amentas made a motion to approve Resolution 2011-02 approving the creation of the consolidation committee for the Atglen, Parkesburg, and Pomeroy fire companies. Mr. Makely seconded. Glenn Colyer asked how will this benefit the township.

Mr. Sirna replied "to contain costs." Mr. Colyer also asked if Modena or Westwood had joined. Mr. Sirna replied that Westwood did not show any interest in joining at this time. This is also open to all fire companies. Vote: Unanimous.

TREASURER'S REPORT:

The treasurer's report is tabled until the February 22, 2011 meeting.

Payment authorizations – Mr. Amentas would like to hold Lamb McErlane's \$16,000.00 check for further clarification.

Mr. Makely asked if the board approved the SPCA contract. Mr. Amentas replied that they did because the township police and road department are not qualified to handle stray animals. Mr. Makely asked if the township started billing the Development Home Owner's Association (HOA) for the fire hydrant bills. Mrs. Miller stated "you cannot just bill HOA and no one else." Mr. McClintock stated that the township would have to adopt an ordinance for all properties within 600 feet of fire hydrants. Mr. Makely stated "he will inquire with Mrs. Bukata on the status." Mr. Amentas made a motion to approve the payment authorizations as presented with the exception of checks 15017 and 15033 payments to Lamb McErlane pending clarification from Mrs. Bukata. Mr. Makely seconded. Vote: Unanimous.

Fee Schedule – Mr. Amentas stated that he is not sure that \$2,500.00 is a reasonable amount for the Telecommunications Tower Fee. Mr. Amentas asked Mr. McClintock if there is any legal basis upon where this number could be challenged.

Mr. McClintock replied that the evidence to support the challenge could be what other municipalities charge.

Mr. Amentas made a motion to approve Resolution 2011-03 for fee schedule draft 01-10-2011. Mr. Makely seconded.

Bob King asked if Keystone Municipal Services contacted other municipalities on their telecommunications fee.

Mr. Amentas asked if the recommendations from Keystone Municipal Services in this draft. Mrs. Miller stated that they are not in this draft but will be presented once Keystone submits them. Vote: Unanimous.

First Niagara Bank – Nancy Simes asked if First Niagara Bank is insured. A resident stated that if it's a checking account its insured unlimited and for saving accounts and money market accounts \$250,000.00. Mr. Amentas made a motion to designate First Niagara Bank, N.A., in Buffalo New York as an authorized depository of East Fallowfield Township and to authorize the Township Manager and Treasurer to move the Township's bank accounts to First Niagara Bank. Mr. Makely seconded. Vote: Unanimous.

Freightliner Resolution – Mr. Amentas asked if Lamb McErlane approved this resolution. Mr. McClintock replied "yes."

Mr. Amentas made a motion to sign Resolution 2011-04 and Declaration of Official intent to finance the 2011 Freightliner with First Niagara Bank. Mr. Toth seconded. Mr. Makely opposed. Vote: failed. The board will take another vote when Mr. Broadbent arrives.

Creation of a Park and Recreation Fund – The Board tabled the creation of a separate Park and Reaction Fund until the February 22, 2011 meeting.

PARK AND RECREATION:

January 2011 Park and Recreation report – The January 2011 Park and Recreation report was submitted.

HISTORICAL COMMISSION:

January 12, 2011 minutes – The January 12, 2011 Historical Commission minutes were submitted.

Mr. Broadbent arrived at 8:00 PM.

LEGAL ISSUES:

Metro PCS Conditional Use decision – Mr. McClintock presented the Board with a draft proposal for the Metro PCS Decision and Order for consideration. Mr. McClintock stated this will be recorded against the property so if another telecommunication company takes the tower over they will know the conditions. Mr. McClintock also stated that Metro PCS has to agree to all the conditions within 14 days and pay the township costs and fees during the process. Mr. Cuce stated that if the board accepts the Metro PCS application he will relay the conditions to his client. Mr. McClintock stated that PECO will not allow an easement recorded but will write a letter to the effect that the applicant has the right to use the access way, the parking, and to make vegetation near the entrance near Route 82. Mr. Makely asked if it was stated in earlier testimony that an easement would be granted. Mr. McClintock replied "he believes that is correct." Mr. Cuce stated that Mr. Pompo brought up the point that this was conditioned upon PECO agreeing to such an easement being recorded.

Mr. Amentas asked about the maintenance of the driveway. Mr. Cuce replied that the letter could state that Metro PCS is responsible for the access driveway through to the common area. Mr. Makely asked "by whose standards are we gauging what they do." Mr. McClintock replied Metro PCS had agreed that they would maintain the vegetation as required. Mr. Makely asked the length of the site distance. Mr. McClintock replied that he cannot speak to the site distance but the issue with the vegetation began with PennDot's issuance of a minimal use permit to PECO for the access way onto Route 82. As part of the permitting, PennDot requires PECO to maintain vegetation. Mr. McClintock also stated that PECO has not maintained it and PennDot has not enforced it even though it's part of the permitting requirement. Mr. Amentas asked "are we absolutely positive that they agreed on record to do that." Mr. McClintock replied that one of the conditions could be modified or add another condition stating "The Applicant shall continually, during the term of the lease with PECO, maintain the vegetation in accordance with the PennDot permit issued to PECO for the minimum use access onto Route 82." Mr. Makely stated that this does not address the site distance. Mr. Amentas replied "presumably the original permit took that into account." Mr. Amentas asked "what is the problem, if any, with the fact that PECO will not allow the recordation of any easement." Mr. McClintock replied "if they don't do the recordation of the easement PECO can come back and say they don't have the right to do this." Without the easement or any documentation PECO can tell the applicant that they do not have the right to maintain the vegetation. Mr. Makely asked if a draft of the letter was provided. Mr. McClintock replied "a draft of the letter was not provided." Mr. Amentas stated "a letter from PECO in and of itself would grant any legal rights to anyone that doesn't otherwise already exist." Mr. McClintock replied "that if the letter referenced the lease agreement and said that PECO's legal opinion is the lease agreement already provided this, it would be very difficult for PECO to get out from under that." Mr. Amentas stated "usually an engineer's issues and concerns as raised in a letter or otherwise are usually addressed prior to this point." Mr. McClintock replied "sometimes there are outstanding issues." Mr. Amentas made a motion to accept the Decision and Order for the applicant Metro PCS No. C-4-10, Solicitor draft of January 2011 with conditions recited by the township Solicitor regarding the applicant's duty to maintain and remove vegetation in conformance with the PennDot minimal use permit. Mr. Broadbent seconded. Mr. Cuce asked if #10 stays in in it's entirely. Mr. Amentas amended his motion to add "condition #10 is stricken from the Decision and Order." Mr. Broadbent seconded. Jamie MacCombie suggested having a caveat that is subject to verification by the township engineer regarding maintenance of the PennDot permit and the clear site distance. Mr. MacCombie also stated that the letter should be attached to the lease agreement and to provide notification if they terminate the lease. Mr. Cuce stated that if Metro PCS abandoned the site it is still incumbent upon PECO to maintain the vegetation cut back. Mr. McClintock stated that the applicant is required to put a security with the township for the tower removal if they ever abandon the site. Mr. Amentas stated that the Decision and Order states a security to the township but no amount. Mr. Amentas asked if the board would like to add a condition "The applicant shall advise the township immediately of any changes in the legal relationship between the applicant and the landlord, PECO." Vote: Mr. Makely and Mr. Toth opposed. Mr. Broadbent and Mr. Amentas voted yea. Vote failed. Mr. McClintock stated that unless the applicant's council submitted a written extension and if the board fails to approve or conditionally approve this matter it is deemed approved without conditions. Mr. Amentas called for another vote. Mr. Amentas made a motion to accept the Decision and Order for Metro PCS C-4-10 solicitor draft dated 1-5-11 with the changes instated. Mr. Toth seconded. Vote: Unanimous.

Coatesville Area School District – Doug Parkins, Kurowski & Wilson Engineers, on behalf of Coatesville Area School District (CASD) asked the board to approve the expansion of the PAWC franchise area currently in the township to include the school property and some properties directly opposite the school on Doe Run Road to allow public services to be extended to the site. Mr. Parkins stated that they would like to do the expansion in two steps. One would be Phase I and Phase II that may extend beyond this expansion, yet to be determined. Jamie MacCombie was present on behalf of Coatesville Area Senior High School. Mr. MacCombie stated that he discussed with PAWC and the CASD the issue the township supervisors wanted. The issue was to expand the water service area up to and including Triple Fresh and to look at providing gravity sewer service to that area. Mr. MacCombie also stated that based on PAWC's tariff they will expand water service areas within a designated franchise provided that the cost is \$8,100.00 or less for individual connection. Mr. Broadbent asked Mr. MacCombie what he meant when he referred to a grinder pump. Mr. MacCombie replied that a grinder pump is a low pressure sewer system. Mr. MacCombie also stated that he told CASD that the Board of Supervisors would not approve a grinder pump system unless there is an operation maintenance agreement that will hold the township harmless and put the burden of maintenance on CASD. Mr. Broadbent asked how the homes are south of Strasburg Road serviced. Mr. MacCombie replied "wells and onsite sewer systems." Mr. Broadbent asked if Mr. MacCombie knows the condition of those sewer systems. Mr. McClintock stated that per the "sewer survey" there is a desire to tie into the sewer system however; the survey did not state the cost that would be involved. Mr. MacCombie stated that the reservation fee to tie into a line is currently \$525.00. On January 1, 2012 the reservation fee will be \$4,000.00. Mr. Amentas asked if the reservation fee only applied to someone that wants to reserve capacity. Mr. MacCombie stated that under the Municipal Authority Act you can't charge existing customers for capital improvements like the plan expansion and can only charge for

what improvements that have to be done to the sewage treatment plan to meet the Department of Environmental Protection's criteria for the discharge. Under the Public Utility Commission Law and PAWC as a public utility; they are proposing all the costs, the expansion and the upgrades to be paid for 6,000 customers. Mr. Amentas asked why other municipalities have an operation maintenance agreement and East Fallowfield does not. Mr. MacCombie replied "because East Fallowfield is not a bulk customer." PAWC agreed to provide sewer service to the Cardinal Drive area and pay \$1,000.00 to the township for every new home connection to the sewer system. Approximately seven years ago the Board of Supervisors wanted to be individual customers and did not want any sewage area south of Strasburg Road. Mr. Broadbent asked if other townships are "bulk customers." Mr. MacCombie replied that there are 10 municipalities that go into the Coatesville system. Valley Township, Caln Township, West Brandywine Township, and Sadsbury Township are bulk customers. The City of Coatesville, Parkesburg Borough, West Caln Township, West Sadsbury Township, Highland Township, and East Fallowfield Township are not bulk customers. Mr. Broadbent asked who would install the lines if you're a bulk customer. Mr. MacCombie replied "a developer or township." Mr. Broadbent asked where the sewer line would run through for Phase II. Mr. Parkins replied that the natural gradient goes down to the north towards the creek in the township park. Mr. Parkins stated that the CASD received notification from the Chester County Health Department stating that the CASD current sewer system will not be approved. Mr. MacCombie replied that he also wrote a letter denying the current sewer system. Mr. Amentas asked if the original expansion was just across from the school. Mr. Parkins replied that it was just to expand and include the school property only but since water is being brought up they are including those ten properties. Mr. Broadbent made a motion to approve the expansion of the current PAWC franchise area for the public water and sewer utilities to include the CASD property and the adjoining properties across the street from the school. Mr. Makely seconded. Bob King asked if the sewer line was going on the township park side. Mr. Parkins replied "yes." Mr. King stated that there should be a condition that the school put in a pump station. Mr. Broadbent asked if that is an option. Mr. MacCombie replied "yes." Vote: Unanimous.

Telecommunications Ordinance and Comcast agreement – Mr. McClintock presented the 10 year Comcast agreement with a 5% franchise fee of annual gross revenue. Mr. McClintock also stated that 5% is the state maximum. Mr. Broadbent asked if the state lowered the fee would it adjust lower or remain 5%. Mr. McClintock replied it remains how the ordinance is written as 5% which addresses any potential increase during the 10 year agreement. Mr. Makely made a motion for the advertisement of an ordinance re-enacting chapter 13, part 4 of the Township of East Fallowfield code of Ordinances of the Telecommunications Ordinance. Mr. Broadbent seconded. Mr. Amentas asked is there is a prior Telecommunication Ordinance. Mr. Makely replied "yes." Vote: Unanimous.

Use and Occupancy Permit – Mr. McClintock presented the Use and Occupancy Permit to the Board and stated that you cannot get a Use and Occupancy certification unless you connect to the public sewer system. Mr. Makely made a motion to advertise an ordinance amending chapter 27 of the East Fallowfield Township code being the zoning ordinance by requiring use and occupancy certification upon the transfer of ownership of residential properties. Mr. Amentas seconded. Mr. Broadbent stated that the revocation clause "in the event that the dwelling unit is determined to be unsafe, uninhabitable, or that a condition exists that is in violation of any ordinance of the township" is too vague. Vote failed. The Board tabled advertisement until the February 22, 2011 Board of Supervisors meeting.

Sewer Connection Ordinance discussion – The Board tabled the advertisement of the Sewer connection Ordinance to the February 22, 2010 Board of Supervisor's meeting.

POLICE DEPARTMENT:

December 2010 police report – The December 2010 police was submitted for review.

Resignation of Officer Kristen Menna – Mr. Amentas made a motion to accept the resignation of Officer Kristen Menna effective January 25, 2011. Mr. Makely seconded. Vote: Unanimous.

PUBLIC WORKS DEPARTMENT:

December 2010 road and vehicle report – The December 2010 road and vehicle report was submitted for review.

December 2010 recycling report – The December 2010 recycling report was submitted for review.

EMERGENCY SERVICES:

Westwood December 2010 fire report – The Westwood December 2010 fire report was submitted for review.

UNFINISHED BUSINESS:

Supervisors working for the Township as snow plowers – Mr. Toth asked the Board why they voted to not allow supervisors work as snow plowers, at the last meeting. Mr. Broadbent replied “there could be a conflict.” After Board discussion Mr. Makely made a motion to add Mr. Toth as a “township snow plower.” Mr. Broadbent seconded. Mr. Toth abstained. Vote: Unanimous.

Freightliner – Mr. Amentas made a motion to sign Resolution 2011-04 and Declaration of Official Intent to finance the 2011 Freightliner with First Niagara Bank. Mr. Broadbent seconded. Mr. Makely opposed. Vote: Unanimous.

PUBLIC PARTICIPATION:

Joseph Wilson of 839 Buck Run Road stated that he built a wooden containment structure by the road to hold his trash toter. Mr. Wilson also stated that he received a violation notice from Rob McClarnon, township code official. Mr. Amentas replied that he will review the trash ordinance to see if there is a way for Mr. Wilson to keep the structure.

Nancy Simes of 1508 Robin Road asked for the status of those who did not connect to the Cardinal Drive sewer project. Mr. Broadbent replied that he believes the township ordinance is \$25.00 for non-compliance. Mr. Broadbent stated that he would like further discussion at the February 8, 2011 workshop.

ADJOURNMENT: Mr. Amentas made a motion to adjourn the Board of Supervisors meeting at 10:10 PM. Mr. Makely seconded. Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary