

EAST FALLOWFIELD TOWNSHIP  
BOARD OF SUPERVISORS MEETING  
July 26, 2011  
Approved minutes  
6:47 PM

CALL TO ORDER, SILENT MEDITATION, AND PLEDGE OF ALLEGIANCE

IN ATTENDANCE: Chris Amentas, Chairman; Chris Makely, Vice Chairman; George Broadbent, Member; Denise Miller, Township Secretary; Jill Bukata, Township Manager and Treasurer; Vince Pompo, Solicitor. Members Mr. Barach and Mr. Toth were absent.

APPROVAL OF MINUTES:

June 28, 2011 minutes – Mr. Amentas made a motion to approve the June 28, 2011 minutes as presented. Mr. Broadbent seconded. Vote: Unanimous.

EXECUTIVE SESSION: There was an executive session at 6:00 PM before tonight’s meeting for a presentation by Portnoff and Associates.

CITIZENS BY REQUEST:

Buddy Rhoades – Mr. Rhoades asked the Board if the township charges a trash fee for four homes in Modena and asked if the speed limit for South Baily Road and Misty Patch Road could be reduced from 40 MPH to 35MPH. Mr. Rhoades also asked if the Township was suing the Township Zoning Board. Mr. Pompo replied “Technically when the Board authorizes an appeal to the decision of the Zoning Hearing Board they are disagreeing with their decision.” Mr. Makely asked Mrs. Bukata to explain the billing for the four homes in Modena Borough. Mrs. Bukata stated “The five homes that are picked up by South Coatesville are not invoiced because South Coatesville is picking up trash for a home on Hephzibah Hill Road that is in East Fallowfield Township.”

Presentation of 2008 and 2009 audited financial statements – Mrs. Bukata presented Ms. Colleen Williams of McGladrey & Pullen LLP. Ms. Williams presented the Board with the 2008 and 2009 audited financial statements. Mr. Makely asked Ms. Williams if she would return to a board meeting to answer questions once the Board reads over the reports. Ms. Williams replied “yes.”

TREASURER’S REPORT

Jill Bukata presented the financial report and payment authorizations.

Cash balances are as follows

General Fund	\$178,932.57
Liquid Fuels Fund	\$394,200.41
Capital Project Fund	\$511,419.48
Escrow Fund	\$411,135.53
Park and Recreation Fund	\$173,898.59

Mrs. Bukata informed the Board that the Township received \$112,000.00 of earned income taxes that was inadvertently remitted to the Coatesville Area School District by the tax collector.

Payment authorizations for the period of June 29, 2011 through July 26, 2011

From the General Fund	\$150,226.96
From the Liquid Fuels Fund	\$ 14,693.56
From the Escrow Account	\$ 8,283.15
From the Park and Recreation Accounts	\$ 2,153.99
West Chester Road	\$ 782.50
Payroll Transfers	\$ 75,066.33

Mr. Broadbent asked Mrs. Bukata what the Capital Project Fund amount is from June. Mrs. Bukata replied “nothing has changed other than interest.” Mr. Amentas asked Mrs. Bukata why the General Fund balance on page one is different than the balance on page two. Mrs. Bukata replied “page one is an income statement and page two is the actual cash in the bank.” Mr. Broadbent asked Mrs. Bukata if the transfer of the money owed to the Park and Reaction Commission had been completed yet. Mrs. Bukata replied “there is a resolution on tonight’s agenda for the Board to pay that money back.” Mr. Amentas asked Mrs. Bukata if there is an incentive for the Township to use all the Liquid Fuels money. Mrs. Bukata replied “no.” Mrs. Bukata also stated that a Liquid Fuels audit for 2008, 2009, and 2010 was recently performed. Mr. Makely made a motion to approve the June 30, 2011 treasurer’s report as presented. Mr. Broadbent seconded. Vote: Unanimous.

Mr. Amentas made a motion to approve the June 2011 payment authorizations. Mr. Makely seconded. Vote: Unanimous.

Borrowing resolution for a Township credit card – Mr. Makely asked Mrs. Bukata why it is taking so long to get a township credit card. Mrs. Bukata replied that the bank is requiring audited financial statements. Mr. Amentas made a motion to authorize the township to apply for a credit card in the name of East Fallowfield Township and have a credit limit no more than \$2,000.00.

Mr. Broadbent seconded. Glen Colyer stated that it should be “not to exceed \$2,000.00.” Mr. Amentas amended his motion to authorize the township to apply for a credit card in the name of East Fallowfield Township to have a credit limit of not to exceed \$2,000.00. Mr. Makely seconded. Vote: Unanimous.

Payment of amounts due to the Park and Recreation Fund – Mrs. Bukata stated that she went back twelve years to when the township park was purchased in 1999. Mr. Amentas asked Mrs. Bukata if this was a onetime payment. Mrs. Bukata replied that in 1999 the Township bought the township park for \$408,000.00 along with grants from the County and the State and a payment of \$50,800.00 was made by the township. Mr. Amentas made a motion to authorize the transfer of \$58,339.00 from the Capital Projects Fund to the Park and Recreation Fund to address the finding in the 2009 audited financial statements that a payment in that amount is due to the Park and Recreation Fund from the General Fund in relation to the construction of the East Fallowfield Community Park.

Mr. Broadbent seconded. Vote: Unanimous.

#### PARK AND RECREATION:

July 2011 summary – The July 2011 summary was presented.

July 2011 approved minutes presented – The July 2011 approved minutes was presented.

#### HISTORICAL COMMISSION:

No report submitted.

#### PLANNING COMMISSION:

No report submitted.

#### POLICE DEPARTMENT:

June 2011 police report – The June 2011 police report was presented.

Hiring of John R. Fetscher Jr. – Mr. Makely asked Chief Porter what equipment is issued to a new part time police officer. Chief Porter replied that the Collective Bargaining Agreement (CBA) states “all uniforms” which includes belt, hat, boots, etc. Mr. Makely asked if the (“CBA”) is a union document. Chief Porter replied “yes.” Mr. Makely asked “how much does it cost to outfit a part time officer?” Chief Porter replied that it depends on what equipment the officer brings with them and if they need body armor. If they do not have body armor it is provided to them with half the cost offset by a grant. Mr. Makely asked Chief Porter how much it will cost the township to outfit officer Fetscher. Chief Porter replied “approximately \$600.00.” Mr. Makely made a motion to hire John R. Fetscher Jr. for the position of part time police officer at \$22.75 per hour effective July 26, 2011 contingent on completion of his MPOETC certification. Mr. Broadbent seconded. Mr. Amentas asked if Chief Porter recently had two part time officers resign. Chief Porter replied “Officer Fredericks and Officer Imhoff resigned” Mr. Amentas also asked Chief Porter if part time police officers were utilized more this year than last year. Chief Porter “yes.” Mr. Makely asked Chief Porter how he came up with \$22.75 per hour. Chief Porter replied “it’s in the Collective Bargaining Agreement and cannot be changed.” Vote: Unanimous.

Mr. Amentas asked Chief Porter for a status on the police department budget. Chief Porter replied “they are under budget.”

Mr. Broadbent asked Chief Porter to add a comparison of the 2010 and 2011 incidents to the police report.

## SOLICITOR'S REPORT:

No report presented.

## LEGAL ISSUES:

Fairview Road speed limit – Mr. Amentas made a motion to approve Ordinance 2011-03 reducing Fairview Road (T-373) speed limit from 35 MPH to 25 MPH Solicitor draft June 29, 2011. Mr. Broadbent seconded. Mr. Makely opposed. Vote failed.

Ridgecrest final plans – Mr. Amentas apologized to Mr. Moser for the disjointed way that this issue has been handled. Mr. Amentas also stated that after the Board's last workshop they understood that there was a conditional use for the first set of plans there also was a conditional process that they were subjected to and then there was a conditional use approval with conditions imposed that at least the Board waited to or derived from some part to some extent from the nature and the characteristic of that initial plan so as to the extent the plan has now changed and is unsure as to what extent the Board has to go back and reissue the process and issue. Mr. Moser said that everything has basically stayed the same except they replaced sixteen lots, gave more green space, and changed the trail.

At the suggestion of Mr. MacCombie the pump station was also moved. Mr. Moser also stated that he still has to attend the next Park and Recreation Commission ("P&RC") meeting. Mr. Pompo asked if the plans changed since Chris Della Penna's May 27, 2011 letter.

Mr. Moser replied "no." Mr. Moser also stated that the Board was going to approve the plans last month but someone brought up "parking." Mr. Moser also stated that he will make all the changes to the plans once the Board tells him exactly what to do because the Planning Commission told him to take out the parking at the entrance of South Caln Road and they are not sure that is what the Board wants them to do. Mr. Moser asked the Board for final conditional approval so he can move forward with completing the conditions.

Mr. Pompo questioned the conditions being five years old. Mr. Pompo asked Mr. Moser when the trails are going to be designed and presented to the Board for their review and approval. Mr. Moser replied "that the township Planning Commission said he did not have to go to the Board." Mr. Moser also stated that he is presenting the trails at the August 2, 2011 ("P&RC") meeting. Mr. Broadbent asked Mr. Pompo how does the township deal with a conditional use that is very specific as to what can and cannot be done, what is protected in terms of open space preserves and how the sewer lines and public water are going to connect. Mr. Pompo replied that he has not gone through the conditional use decision and generated a review as to what the compliance state of each individual condition but Mr. Della Penna has listed where the plans are in compliance and listed six items that need to be continued and implemented as a result of any approval. Mr. Broadbent asked if the "findings of fact" can be deviated from. Mr. Pompo replied "the conditions themselves are what control; findings of fact generally are there so that when someone reads the decision particularly when there is passage of time and someone can understand what the basis is for the condition. Mr. Amentas asked Mr. Pompo if the facts change and the facts form a basis of the conditions, can the decisions be examined. Mr. Pompo replied "if it's raised to that level." Mr. Pompo stated "he believes that the Board from allowing the applicant to proceed by amending the plans was proceeding on the grounds that the changes were not that material as to require the opening of the conditional use." Mr. Amentas asked Mr. Pompo when is it appropriate to give "final conditional approval." Mr. Pompo replied "It is appropriate when the plans themselves adequately reflect what is going to be built meaning the layout, improvements, design, and all consultants are in agreement." The condition generally relates to third party approval, agreements, or other legal documents that go with the plan. Most specifically with this plan, and any other plan, that is posting a financial security, and required in order to allow the plan to be recorded. For Ridgecrest there are a host of financial obligations, not only the security for the improvements, the payment for the contribution for the West Chester Road improvements, requirement before the plans are signed and recorded that the development pays their funding for the regional sewer etc. If the plan is not going to change anymore but the third party approvals or agreements and financial security are all that's left then it's appropriate to give conditional final approvals. If the plans are still in flux then it is not appropriate. Mr. Amentas asked Mr. Pompo how he would define "in flux." Mr. Pompo replied that if the Board is in agreement that there should not be a parking field along South Caln Road, then the plans would have to be revised to show that would be the plan for approval or crafting conditions that explain how the parking field is going to be removed. Mr. Pompo stated that in Mr. Della Penna's letter it states that there is a new house design that has to go to the Planning Commission. Mr. Moser replied that he already presented the plans to the Board at the last workshop. Mr. Moser reiterated that the plans are the same except he took one road out, readjusted the lots, deleted the pump stations and had to find a different flow for the sewer because he couldn't go through Harkins Farm anymore. Mr. Amentas asked Mr. Pompo if there are other conditions that should be formalized and put in writing. Mr. Pompo replied that there are conditions in Chris Della Penna's May 27, 2011 letter, the conditions in the preliminary final subdivision approval letter in 2004, and the outstanding conditions in the conditional use decision. Mr. Pompo also stated that Mr. Della Penna's letter references plans that show a "parking area." Mr. Moser replied "that is the only thing as far as he knows that is not in Mr. Della Penna's letter." Mr. Amentas asked Mr. Moser "what letter." Mr. Moser replied "the May 27 letter." Mr. Makely asked Mr. Moser if there is a letter after the May 27, 2011 letter from Mr. Della Penna. Mr. Moser replied "no." Mr. Moser also stated that at the workshop he agreed to remove the parking on South Caln Road and allow the Board to walk the property when he started major planning. Mr. Amentas asked Mr. Pompo if the Board can give "conditional final approval" without the condition pertaining to the ("P&RC") and the requirement to bring the plans and discuss the trails with ("P&RC") before final approval. Mr. Pompo replied "yes, because that is the way the township did it back in 2000."

Mr. Broadbent asked Mr. Pompo if condition eight, regarding the flashing lights at the intersection of West Chester Road and South Caln Road, has changed. Mr. Pompo replied that there has been no change in the design but there have been discussions about it and he would not change the condition until and unless there is total agreement reached on a new design. Mr. Pompo stated that there has also been some disagreement as to whether the developer has paid their "per unit" contribution relative to the others developments for the West Chester Road project and that would be in the amount of \$500.00 X 27 which is \$13,500.00 and the other development has an escrow amount, for the flashing yellow light, of \$40,000.00 with a condition that states it doesn't need to be installed until the twenty-seventh building permit. Mr. Amentas asked Mr. Moser if he cared if the township used the escrow now or later. Mr. Moser replied that he would have to talk to his bank. Mr. Pompo stated "if the township would agree to a release of that amount." There is also an escrow for Northwoods for the design and permitting of the improvement in the amount of \$36,500.00. Mr. Amentas asked Mr. Pompo if he thinks it's improper to require someone to deal with issues involving another project as a condition to approving a separate project. Mr. Pompo replied that you cannot require them but you can discuss and see if the applicant will offer a resolution. Mr. Moser stated "they are different companies and different developer." Mr. Amentas made a motion to give conditional final approval of the Ridgecrest Subdivision contingent upon Mr. Moser's compliance with Chris Della Penna's final review letter dated May 27, 2011 as well as his compliance with the conditions that were imposed in 2004 also approval contingent upon the Board of Supervisors approval of revised parking configuration as reflected in the plans. Mr. Broadbent seconded. Pamela White of 100 Bridle Path Lane would like to know what provisions are in place so the public will not park on either side of the road. Mr. Moser replied that the trail is interconnecting to the Harkins Development through Ridgecrest Development to Manchester woods. Buddy Rhoades of 2176 Strasburg Road asked why each unit couldn't be hooked up to gas instead of each lot having a propane tank. Mr. Makely asked Mr. Moser if the units will have propane and natural gas. Mr. Moser replied that all the units will have natural gas provided that PECO gives him approval. Ed Porter asked the Board if natural gas is one of the conditions. Mr. Pompo stated that if the Board is agreeable to that condition, it can be added to the motion. Mary Elvin stated that West Chester is a "drug trafficking highway" and said people sit in the entrance of Brinton Station and feels that a "parking lot" would invite more problems. Matthew DeJulio of 2165 West Chester Road stated "he lives opposite this too and doesn't know how far the parking lot is going to be from the road but thinks it's a tremendous hazard to put anything." Mr. Moser replied "the grass spaces are for overflow parking and will not be marked as parking, asphalted or snow plowed." Mr. Moser also stated that these spaces were put in because the Township Planning Commission requested them and he will take them out if the Board asked him to. Charles Kilgore of 1215 South Caln Road stated that when the Pelham Development was constructed they clear cut a lot of the property and he had water flood his property and he would like something done with Ridgecrest Development so it doesn't happen with his property again. Mr. Kilgore also stated that Pelham Development's sediment ponds failed and they still have water coming down the road. Mr. Broadbent asked if the berms that are uncovered going to be disturbed or changed. Mr. Broadbent stated that the berms that are not covered on South Caln Road will not be changed. Carol Holloway, Emma Beck, and Ann Kornet of South Caln Road are concerned with run off coming onto their property and the speed limit. Mr. Moser replied that there is a temporary swale during construction. Ms. Holloway asked Mr. Moser if the Ridgecrest trail will be advertised as a public trail. Mr. Moser replied "it's part of the township master plan." Harry Newman of 785 South Caln Road is opposed to the trail. Mr. Pompo replied "the trail is a feature of the plan that has been here since the conditional use approval." Mr. Pompo also stated that trails are required under the ordinance and internal trails are required to meet recreational needs and advised the Board that you cannot change the plans when these things have been in place and part of the approval for a very long time. Mr. Makely asked "are these 2004." Mr. Pompo replied "yes." Mr. Newman also stated that Manchester Farms Development was supposed to have trails and they were deleted from the plans. A resident asked if residents of South Caln Road are going to be able to connect into the sewer, water, or gas if necessary. Mr. Moser replied "yes." Mr. Moser also stated the PAWC will not make resident hook up. Mr. Amentas called for a vote. Vote: Unanimous.

Comcast Franchise agreement – Mr. Pompo presented the Board with a draft of the Comcast plans that were presented at the end of July that would essentially have the franchise at a ten year franchise with the stipulation that the beginning date is essentially post dated back five years so that the franchise would have an effective running period of five years commencing upon June 1, 2011 and expiring on May 31, 2016. Mr. Pompo also stated that the franchise agreement clearly reads that all of the provisions of Ordinance 2011-01 are incorporated as terms and conditions of the franchise agreement. Mr. Amentas asked if there are any terms in the agreement that would materially affect how business is conducted from 2006 to today. Mr. Pompo replied that he does not believe so because all the terms in the ordinance, that was adopted in 2011, basically reflect what we have been doing with the franchise agreement. Mr. Amentas made a motion to approve the Comcast franchise agreement with a draft date of June 21, 2011. Mr. Makely seconded. Buddy Rhoades commented on the franchise fee. Vote: Unanimous.

ATV ordinance – Tabled until the August 23, 2011 Board of Supervisor's meeting.

Coatesville Area School extension – Mr. Makely made a motion to extend the Coatesville Area School District – South Brandywine Middle School Preliminary Land Development Plan extension from July 25, 2011 until October 23, 2011 to allow ample time for review and approval. Mr. Amentas seconded. Mr. Broadbent asked why is it taking so long for the township to receive the plans with

the new expansion. Mr. Amentas replied that there may remain some ambiguity with how big the expansion legally can be in light of the Comp plan. Mr. Broadbent asked Mrs. Bukata if she heard from Mr. MacCombie (township sewer consultant) regarding the sewer for the Coatesville Area School District and the expansion. Mrs. Bukata replied “no.” Mr. Bukata also stated that Bull Dog Construction provided construction costs to Pennsylvania American Water and the School District for their review. Vote: Unanimous.

**PUBLIC WORKS DEPARTMENT:**

May 2011 road and vehicle report – The May 2011 road and vehicle report was presented.

May 2011 recycling report – The May 2011 recycling report was presented.

**EMERGENCY SERVICES:**

No reports presented.

**UNFINISHED BUSINESS:**

No unfinished business presented.

**NEW BUSINESS:**

No new business presented.

**PUBLIC PARTICIPATION:**

Ed Porter of 795 South Caln Road stated that the language of “recreational vehicle” in the proposed ATV ordinance, version 5, is being used to encompass different types of vehicles such as motorcycles, dirt bikes, and ATV’s. Mr. Porter also stated that if the Board moves forward with version 5 of the ATV ordinance it would be pierced based upon a 2008 case law. Mr. Amentas replied that the last version that was discussed at the workshop apparently recognized that fact but defines dirt bikes separately and the case law may be the reason why. Mr. Amentas asked Mrs. Bukata to look at the older draft and put the definition of dirt bikes back in.

Buddy Rhoades of 2176 Strasburg Road stated that there have been only a few complaints regarding ATV’s and it is unfair to other residents to enact this ordinance. Mr. Rhoades also asked if the township is still paying the insurance for the S.W.A.T. vehicle that is in Downingtown. Mr. Makely replied that the township is paying a small amount.

Joe Pomorski of 169 Bridle Path Lane invited all residents to volunteer on the Park and Recreation Commission.

**ADJOURNMENT:** Mr. Amentas made a motion to adjourn the Board of Supervisors meeting at 8:55 PM. Mr. makely seconded. Vote: Unanimous.

Respectfully Submitted,

Denise Miller,  
Township Secretary