

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
September 27, 2011
Approved minutes
6:37 PM

CALL TO ORDER, SILENT MEDITATION, AND PLEDGE OF ALLEGIANCE

IN ATTENDANCE: Chris Amentas, Chairman; Chris Makely, Vice Chairman; George Broadbent, Member; Gary Barach, Member; Mark Toth, Member; Denise Miller, Township Secretary; Jill Bukata, Township Manager and Treasurer; Barry Gathercole, Public Works Director; Vince Pompo, Solicitor; Chris Della Penna, Township Engineer; Jamie MacCombie, Sewer Consultant.

EXECUTIVE SESSION: There were executive sessions on August 23, 2011 regarding personnel matters and September 13, 2011 regarding legal issues.

APPROVAL OF MINUTES:

July 26, 2011 minutes – Mr. Amentas made a motion to approve the July 26, 2011 minutes as presented. Mr. Makely seconded. Member Mark Toth abstained. Member George Broadbent not present. Vote passed.

August 23, 2011 minutes – Mr. Amentas made a motion to approve the August 23, 2011 minutes as presented. Mr. Barach seconded. Member George Broadbent not present. Vote passed.

CITIZENS BY REQUEST:

Jennifer, Haylie, and Jacob Kerstetter of 195 Wilmington Road opposed the setbacks in the proposed ATV ordinance and proposed changing them to fifty feet from the adjoining properties and one-hundred feet from an offsite residential drive. Mrs. Kerstetter presented the Board with a petition opposing the proposed ordinance and a letter from her attorney stating discrepancies in the proposed ordinance. Mrs. Kerstetter stated that she generally opposes the whole proposed ATV ordinance.

Jim Sisk of 325 Doe Run Road stated that at the last meeting two supervisors and the Police Chief said that the proposed ATV ordinance is unenforceable for many of the items. Mr. Sisk also stated that the proposed ordinance is troublesome and unethical.

John Davis of 224 Wilmington Road commented on residents riding ATV vehicles on the road and groups of neighborhood kids coming together to ride on Mrs. Kerstetter's property and in other parts of the township. Mr. Davis is in favor of an ATV ordinance with a buffer zone to keep the noise and dust down.

Buddy Rhoades of 2176 Strasburg Road stated that he is opposed to any kind of tax and also suggested the reduction of the Planning Commission, Police, Roads, and Administrative budgets. Mr. Rhoades also stated that he has been asking that the speed limit on South Caln Road and Misty Patch Road be reduced from 40 MPH to 35 MPH. Mr. Rhoades also commented on other township issues.

Charles Kilgore of 1215 South Caln Road stated that runoff onto his property started in 2006 when the Pelham Place/Fieldstone development was developed and they were washed out twice in the last two months. Mr. Kilgore also presented the Board with pictures of his property. Mr. Amentas asked Mr. Della Penna if he inspected this property. Della Penna replied that he met a week after tropical storm Lee with Mr. Kilgore, Mr. Baranzano, Mr. Kozlowski, Jill Bukata, and Mike Holmes of Rouse Chamberlain and found that there was a lot of runoff coming off of Fieldstone Development but they are not a major portion of the watershed. Mr. Della Penna also stated that the total watershed is 1,242 acres and the portion of Fieldstone is 104 acres which is about eight percent of the watershed. Mr. Della Penna further stated he contacted Rouse Chamberlain and asked if the bank would do additional engineering studies to make larger basins. His reply was "It's basically working so they are not doing anything." Mr. Amentas stated that in the case with Fieldstone Development the Township has to identify if there is something wrong with the development with the temporary facilities. Mr. Amentas asked Mr. Della Penna if there was a failure with the facilities or was it because of the size of the rain events and is there anything that the township could do. Mr. Della Penna replied that the rains were historic events within a week of each other. Hurricane Irene dropped seven inches of rain and Tropical Storm Lee had over six inches of rain. A 100 year storm is 7.6 inches within 24 hours. Mr. Della Penna also stated that the bank could

possibly put in some conversions to try and get water in the inlets but that is not going to stop the water that is coming off the bank. Mr. Amentas asked Mr. Della Penna under what authority can the township ask that. Mr. Della Penna replied "If it is an issue where the developer is not in compliance; that is their responsibility." Mr. Amentas stated that the township needs to ascertain what if anything is feasible under the circumstances and then identify what the township can do that would actually serve some sort of purpose.

Dennis Kozlowski of 1100 South Caln Road stated that he is getting runoff from Fieldstone Development.

Ed Porter of 795 South Caln Road asked the Board not to make a rushed decision on a property tax. Mr. Porter also mentioned about putting the property tax on the ballot. Mr. Amentas asked Mr. Pompo if that could be on a ballot. Mr. Pompo replied that voter services will only accept a question which is specifically authorized by some state statute on a referendum ballot. Mr. Pompo also stated that there is a referendum handbook published by the Department of Community and Economic Development that is online.

TREASURER'S REPORT

Jill Bukata presented the financial report and payment authorizations.

Cash balances are as follows

General Fund	\$141,819.39
Liquid Fuels Fund	\$386,263.04
Capital Project Fund	\$453,261.90
Escrow Fund	\$410,030.22
Park and Recreation Fund	\$233,236.75

Payment authorizations for the period of August 24, 2011 through September 27, 2011

From the General Fund	\$135,928.74
From the Liquid Fuels Fund	\$ 19,675.60
Escrow Account	\$ 9,614.38
Park and Recreation Fund	\$ 1,359.91
Payroll Transfers	\$ 83,810.73

Mr. Makely asked Mrs. Bukata exactly how much money does the township have and how much money will be taken from the General Fund to balance the budget. Mr. Bukata replied that there was \$27,000.00 in the General Fund bank account prior to some activity from the state with money coming in that goes right out again. Mrs. Bukata also stated that the projected shortfall deficit of \$185,000.00 projected shortfall and \$206,594.00 (budget for 2011) will have to come from the General Fund to balance the budget. Mr. Amentas asked Mrs. Bukata what the total of earned income tax received as of today. Mrs. Bukata replied "\$790,000.00." Mr. Amentas further stated that since the township does not know how much money is still owed at the end of the year the total could be \$850,000.00 or \$950,000.00. Mrs. Bukata replied "yes." Mr. Amentas further stated if the township has \$850,000.00 or \$950,000.00 by the end of the year that would affect the "shortfall." Mr. Barach asked Mrs. Bukata if anything has been implemented to collect the prior year trash payments owed. Mrs. Bukata replied that nothing additional has been done because there is no staff to do so. Mr. Amentas made a motion to approve the August 31, 2011 Treasurer's report as presented. Mr. Makely seconded. Bob King asked the Board why the police part time officers are over budget and the road department is over budget on line item 1430.21. Bob King also asked when the police officers on workers comp are coming back to work. Mr. Makely replied "they are disability cases and cannot be discussed in public." Mr. Makely stated that line item 1410.29 is workers compensation money received. Mr. Barach opposed. Vote passed.

September 2011 payment authorizations – Mr. Amentas made a motion to approve the September 2011 payment authorizations. Mr. Broadbent seconded. Siti Crook asked what the Orthopedic Specialists check is for. Mr. Amentas replied "Independent medical examinations for the disabled police officers." Siti Crook also asked what the Psychological Resources check is for. Mrs. Bukata replied that all new police officers are subject to this test. Vote: Unanimous.

Review draft of 2012 budget – Mrs. Bukata presented the Board with a 2011 draft budget. Mrs. Bukata stated that salary increases are not included in the budget except what is contractual regarding police officers. Buddy Rhoades stated that he cannot hear Mrs. Bukata speaking and requested a microphone so he could hear her. Mr. Makely stated that he would like to wait and finalize the budget until the two new Board Members are elected and asked if new members are allowed to give input into the budget. Mr. Pompo replied “not until they are sworn in they cannot.”

Cingular Wireless payment update – Total expenses of \$19,985.48 of which \$16,592.98 have been paid. A recent invoice of \$3,392.50 was just sent out.

PARK AND RECREATION:

August 2011 summary – The August 2011 summary was presented.

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

Review of Pavilion fees – Mr. Makely asked Mr. Pompo if the township can charge fees for the pavilion since it was paid for with County money. Mr. Pompo replied that you can set reasonable fees and he does not believe that charging non-residents more than residents is a legal issue. Mr. Makely made a motion to approve a \$50.00 fee for Township residents and Township non-profit organizations for usage of the Park Pavilion and \$100.00 for non-residents, non-resident non-profits, and businesses. Mr. Toth seconded. Mr. Amentas asked the time frame for the \$50.00 fee. Mr. Carling replied “four hours.” A couple of residents asked if the fees have been researched with other Townships. Mrs. Bukata replied that the Park and Recreation Commission already did research. The Board tabled this until the Park and Recreation Commission can revisit the prices. Buddy Rhoades commented on other townships and how they conduct their pavilion policies. Jim Sisk stated that he thinks the fees are too high. Ed Porter would like clarification if the motion on the floor is a motion to approve the park fee permit. Mr. Makely replied that the motion is “a” to approve the fees. Mr. Porter also stated that he did not see the “\$100.00 deposit” within the rules and nothing that states you are responsible for anything over \$100.00. Mr. Pompo replied that if there is proof that more than \$100.000 in damages has been done it can be pursued under the park rules and criminal and civil laws. The problem could be finding the person who caused the damage. Mr. Makely withdrew his motion and recommended that the Park and Recreation Commission review the contract and fees. Mr. Broadbent asked Mr. Carling why is the time pavilion use fee time from 9 AM to 5 PM. Mr. Carling replied “The concept was to give the “non-profit organizations time for evening meetings and not have to pay.” Mr. Makely asked Mr. Carling if the guide lines are in the rules and regulations or are they a separate document. Mrs. Bukata replied that they are in the guidelines. Mr. Makely also asked if the park rules have to be amended because of the changes and fees. Mr. Pompo replied that you do not have to change the ordinance in order to charge the fees but once adopted they should be put into the “fee schedule.” Mr. Pompo also stated that if there are any changes in the “rules” to accommodate the new changes you should revise the ordinance. Mr. Pompo asked Mrs. Bukata to outline all the changes.

Mr. Carling asked the Board to assign a new Park and Recreation Commission liaison since Mr. Toth is otherwise committed.

HISTORICAL COMMISSION:

No report submitted.

PLANNING COMMISSION:

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

New member recommendation Joseph C. Perizan, Esquire – Mr. Amentas made a motion to accept Joseph Perizan as a new member of the Planning Commission until December 31, 2011. Mr. Amentas asked why the term is only until 2011. Mrs. Bukata replied “because it is the term of Ryan Ray who resigned from the Planning Commission.” Mr. Makely seconded. Bob King stated that he believes that Ryan Ray’s term still has three or four years left. Mr. Amentas revised his motion to accept Joseph Perizan Esquire as a new member of the Planning Commission to replace Ryan Ray and complete his term. Buddy Rhoades stated that the Board should meet any new member of any commission. Jim Sisk stated that the Board should interview new applicants for all commissions. Mr. Amentas withdrew his motion.

POLICE DEPARTMENT:

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

Chief Porter informed the Board that on Saturday October 29, 2011 the township office will be open from 10:00 AM to 2:00 PM for the third "take back initiative" where the public can surrender unwanted, expired or unused pharmaceuticals and other medications to law enforcement officers for proper disposal.

Speed limits on area roads – Chief Porter stated that there is a perception that some residents believe that the township has the right to change any road speed limit. Chief Porter explained that under the Pennsylvania code 67 212.108 under speed limits; Engineering and traffic studies; "Speed limits are established in accordance with 75 Pa.C.S. § 3363 may be established in multiples of 5 MPH up to the maximum of lawful speed. The speed limit should be within 5 MPH of the average 85th percentile speed or the safe-running speed on the section of highway, except the speed limit may be reduced up to 10 MPH below either these values, if one or more of the following conditions are satisfied." "A major portion of the highway has an insufficient stopping distance if traveling at the 85th percentile speed or the safe-running speed, the available corner site distance on side roads is less than the necessary stopping site distance values for through vehicles, and the majority of crash related incidents." Mr. Makely asked if Fairview Road was the only speed limit change. Chief Porter replied that Fairview Road is under the "Resident District" under § 3362 which gives it a couple of different reasons why that could have been done. Chief Porter stated that it had to be a 35 MPH speed limit at the time. Mr. Makely replied "that it was not." Chief Porter replied that it was 35 MPH and under there it would have needed a couple of different conditions where the property of a highway or the distance of 300 feet or more is in the main approved width resident. Chief Porter said that the Wilmington Road speed limit was changed to 25 MPH and the ordinance still has it at 35 MPH. Mr. Barach asked how do you initiate a road change. Chief Porter replied that you have to request a traffic study with an engineer from PennDot. Buddy Rhoades stated that the citations that have been given out for Wilmington Road are not valid. Mr. Rhoades also asked "If the police are still part of the "Western Chester County Emergency Response Team." Chief Porter replied "Yes they do and they also pay an annual fee of \$3,000.00." Jim Sisk asked who pays for road traffic studies. Mr. Amentas replied "the township." Ed Porter asked if the police department ever considered permanent speed displays. Chief Porter replied that he is researching funding for those. Glenn Colyer asked how many police hours went into the cover the 197 incidents. Chief Porter replied that he would have to go back and research. Bob King asked the cost of a speed limit check. Chief Porter suggested asking new developers to set aside money for speed studies. Bob King asked Mr. Amentas what he is going to do about the speed limit on Misty Patch Road and South Caln Road. Mr. Amentas replied that he is unable to give an answer because he does not have all the data he needs. Bob King asked if police speed stops can be conducted on Misty Patch Road and South Caln Road. Mr. Broadbent replied "yes." Bob King also asked for a "speed stop" report at the next month meeting. Chief Porter replied "as long as he has the man power."

SOLICITOR'S REPORT:

Mr. Pompo reported The BAWA Fellowship appeal of the zoning hearing board and the Christopher Duerr subdivision appealed by a neighbor are in the Court of Common Pleas waiting for a decision.

In June the Board received a settlement agreement for the Hidden Valley Mobile Home Park enforcement matter that needs to be discussed in an executive session.

Mr. Pompo stated that he had a conversation with Mrs. Bukata regarding the West Chester Road/South Caln Road matter regarding the status of the follow up items one being the scheduling of a meeting with an affected land owner and authorizing the designer of the improvements to be ready to do additional work related to the actual construction project.

LEGAL ISSUES:

Preliminary plan drawings CASD – South Brandywine Middle School water and sewer extension – Kurowski and Wilson Inc. representative Mark Kurowski informed the Board that the water and sewer alternatives that the Board requested were sent to PAWC where they priced them and sent a summary to the township. Mr. Kurowski also stated that the initial project solely provided PAWC to run a line down Doe Run Road to Crossing Boulevard connecting to existing systems. Mr. MacCombie stated "at the charge of the Board he went back to the school district to explain the Board's position and the options that they looked at to be evaluated. The information PAWC received was given to Bulldog Construction to help with the pricing. Mr. MacCombie also stated that he understands that there could not be anything above ground unless to look at the possibility of constructing a bathroom in concert with the sewer system, pump station generator and the possibility of the township putting up any dollars to participate or not participate. PAWC thought that the township would not have to. The dollars mentioned in the letter of approximately \$86,000.00 that the township would have to absorb to do the sanitary sewer option and felt that \$187,000.00 for the water option all the way up to Triple Fresh Market but with the caveat that in fact if there are at least seventeen equivalent dwelling units (EDU) to the waterline it would be done as a wash because PAWC is obligated, under the Public Utility Commission to pay up to \$8,631.00 into future line expansions.

So there is a possibility that it may cost nothing as far as expanding the waterline. Mr. Barach asked Mr. MacCombie if he was ready to give a recommendation. Mr. MacCombie replied that he is not ready to give an opinion but he would support the township giving the school district a "support letter." Mr. Broadbent asked Mr. MacCombie if the "support letter" was not only for support but should define what this expansion is going to be. Mr. MacCombie replied "you alternately need a franchise." The other issue is that the township was provided an anticipated franchise service for water and sewer. The other issue that came up is that the waterline stops short of Triple Fresh Market and the sanitary sewer area probably needs to extend several properties further south than originally on the drawing. Mr. MacCombie stated that he has not received a revised "franchise area." Mr. Barach stated that the concept of the "support letter" was supposed to be that the township needs to know where the whole project expands and part of the whole project is going to be the expansion of the franchise area and also what the township's exposure is financially. Mr. Kurowski stated "the district has always been committed to paying what it would take to extend the sewer to serve their property." Mr. Kurowski asked the Board when PAWC can come back to a meeting. Mr. MacCombie stated that he has to talk with PAWC. The issues are; is the Board ok with the way the franchise area is and land development issues. Mr. Kurowski stated that he will have a revised franchise map to the board in two days.

Coatesville Area School District extension – Mr. Kurowski asked the Board if they would approve a Preliminary Land Development Plan for the Coatesville Area School District – South Brandywine Middle School. Mr. Amentas made a motion to extend the time frame for approval of the final Preliminary Land Development Plan for the Coatesville Area School District – South Brandywine Middle School to January 20, 2012. Mr. Makely seconded. Vote: Unanimous.

ATV ordinance – Mr. Amentas stated that the issue with the ATV ordinance is not with the Kerstetters or any one resident or how many complaints received it is about receiving one complaint about something and conducting an investigation to determine that the complaint is valid in a sense that the adjacent property owner is doing something that constitutes, in your opinion a nuisance, then it should be reviewed and if the use is unreasonable and affecting the adjacent property owner in an unreasonable harmful way then it should be addressed. Mr. Pompo stated "Attorney, Donald Lynn's letter was very comprehensive and makes some good points". Mr. Amentas also stated that he is reluctantly willing to have the ATV ordinance go through further scrutiny in light of the letter that was given to the township to specifically determine whether or not the ordinance conflicts in any way with state law. Mr. Amentas asked Mr. Kerstetter his property acreage. Mr. Kerstetter replied "seven and a half acres." Mr. Amentas asked if Mr. Kerstetter had a problem with the "time frame" that is in the ordinance. Mr. Kerstetter replied "no." Mr. Amentas asked Mr. Kerstetter why is a 250 buffer a problem for him. Mr. Kerstetter replied "It's the way the property is laid out." Mrs. Kerstetter stated "The ordinance is requiring registration and title for dirt bikes and in the State of Pennsylvania you can't do that." Mr. Makely asked Mr. Davis if he is willing to speak with Mr. and Mrs. Kerstetter. Mr. Davis replied "yes." Mr. Broadbent asked why the ATV ordinance was put out for public view because it is not up for a motion yet. Mrs. Bukata replied "it is on the website under the agenda package." Mr. Amentas asked Mr. Davis his opinion on a setback. Mr. Davis replied "I am happy with the 250 feet." Mr. Barach stated "if there is an incident where a neighbor is being abused or doesn't like it there will be something in place." Mr. Broadbent stated that his development has a lot of ATV vehicle usage. Mr. Makely asked Mr. Pompo if there are areas of the ATV ordinance that need to be changed before advertisement. Mr. Pompo replied that the basic complaint is that the ordinance is inconsistent with the snowmobiles and ATV law in many sections and therefore essentially it can't be enforced. Enforcement was an original issue brought up when the ATV ordinance was first proposed. The state's law is in the vehicle code chapter title 75. It is not enforced by the state police necessarily although it can be as well as the local police. Mr. Pompo also stated that the agency that has to have oversight is the Department of Conservation and Natural Resources. However if it is in the vehicle code and there is a provision in the vehicle code that says that where there is a provision in the vehicle code and where there is a local ordinance that regulates the same conduct of the police, even if it is the local police that are enforcing it, must cite to the vehicle code and not the local ordinance. Mr. Pompo stated that he believes the provision in and of itself says it's never inconsistent for a local municipality to have a local ordinance that differs from the vehicle code, just that if you do, you must cite to the vehicle code provision and not to the local ordinance. If it regulates the same subject the police must cite to the vehicle code and not the local ordinance. Mr. Pompo also stated that he doesn't find that going beyond that statute regulating dirt bikes in the same way the statute regulates ATV's is illegal. On that issue Mr. Pompo said he doesn't think the attorney letter is correct but he does cite to certain things in the ordinance that could be implemented in a way that doesn't cause inconsistencies but as drafted it could probably be better. For example; Mr. Pompo stated that he is in agreement with the registration requirement and also doesn't believe there are any other rules in township ordinances about how you go about getting a permit. Mr. Amentas asked Mr. Pompo to specifically identify the areas that have conflict with state law, identify areas of the ordinance that do not touch on anything particularly substitute necessarily but where the language is problematic and omit them from the ATV ordinance. Mr. Barach stated if the board wanted to fix the ordinance that they

are looking at tonight could “if registration is required “be added to the registration provision of the ordinance and under certification add “if such a problem exists.” Mr. Barach asked Mr. Pompo if those changes would clear up those provisions. Mr. Pompo replied “it would.” Mr. Barach also asked if you took out “activity permit” would that rectify all the issues he sees. Mr. Barach asked Mr. Pompo “If you take the ordinance tonight and strike out or add the words that he feels essential to make it something to advertise or is it appropriate to look through the whole thing. Mr. Pompo replied that there are four points raised in attorney Donald Lynn’s letter and he would like time to react to it. Mr. Amentas stated that Mr. Pompo’s focal point should be on the enforceability of the ordinance as written. Mr. Amentas also stated that if there are problems that conflict with state law they need to be resolved and non essential provisions should be omitted.

Portnoff and Associates Fee ordinance – Mr. Amentas made a motion to advertise an ordinance amending the code of ordinance of East Fallowfield Township by approving collection procedures and adopting penalty, interest, and schedule of attorney fees to be added to the amount collected as part of municipal claims for delinquent accounts. Mr. Makely seconded. Mr. Barach abstained. Vote passed.

Portnoff and Associates Fee schedule agreement – Mr. Amentas made a motion to sign the revised September 14, 2011 Portnoff Law Associates, LTD agreement for collection of delinquent trash fees on behalf of East Fallowfield Township. Mr. Barach abstained. Vote passed.

Baron Crest update – Mrs. Bukata informed the board that Mr. Della Penna met with Dave Thomas and they measured and staked out areas to make some final clean up and grading. Once Mr. Thomas completes his work in two weeks the as-built drawings will be completed.

PUBLIC WORKS DEPARTMENT:

Hurricane Irene Wrap Up – Mr. Makely informed the Board that he was out during Hurricane Irene to determine any township damage. Mr. Makely proposed a \$100.00 bonus to all the Public Works employees who worked eight hours during Hurricane Irene. Mr. Makely made a motion to award a \$100.00 bonus to the members of the road crew that worked at least an eight hour shift the night of Hurricane Irene. Mr. Broadbent seconded. Vote: Unanimous.

Tag Gathercole thanked all of the township employees who helped get things ready for Hurricane Irene.

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

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

Bulk pickup fee – Mr. Amentas made a motion to approve a \$25.00 fee for all white good items containing Freon picked up by the public works department. Mr. Makely seconded. Jim Sisk asked if the \$25.00 covers the township expense of getting rid of the bulk item. Mr. Amentas replied “yes.” Vote: Unanimous.

EMERGENCY SERVICES:

No reports presented.

UNFINISHED BUSINESS:

No unfinished business presented.

NEW BUSINESS:

Upcoming Bridge work – Doe Run Church Road – Mrs. Bukata stated that the County is planning to close Doe Run Church Road for approximately five months to repair the Doe Run Church Road Bridge.

November workshop date – The November 8 BOS workshop has to be changed because that is the day the meeting room will be used for voting. The November BOS meeting was scheduled for November 15 because of the conflict with Thanksgiving. The Board agreed to have the BOS workshop on November 9.

PUBLIC PARTICIPATION:

Buddy Rhoades of 2176 Strasburg Road stated that he did not see in the minutes that the Board made a motion for the township to take legal action against the Zoning Hearing Board regarding the BAWA Fellowship project. Mr. Rhoades also stated that when he asked Mr. Amentas last month about the township taking legal action regarding the BAWA Fellowship

project he stated that he didn't know anything about it. Mr. Rhoades commented about the safety factor on South Bailey Road and Misty Patch Road, speed humps on Wilmington Road, and political signs put out too early.

Glenn Colyer of 41 Park Avenue asked Mrs. Bukata the balance of the Baron Crest escrow. Mrs. Bukata replied "\$5,687.00."

Bob King of 235 Misty Patch Road stated that Mr. Barach and Mr. Broadbent previously said if there was escrow money left over from the Baron Crest project it would be used to bury the pipe on Conrad DeAbreu's property.

Mr. Amentas replied they said "when the project is completed and if money is left over the Board would look at it."

Mr. Broadbent stated that it was left as; once all the other improvements were completed did the pipe have to be done.

Mr. King also stated that he asked Chris Della Penna if he is doing inspections after rain storms and his reply was "The Supervisors cut back on some of inspections after storms."

Siti Crook of 2840 Strasburg Road asked Mr. Pompo if he unilaterally decided with Lamb McErlane to sue the Zoning Hearing Board ("ZHB") on the BAWA Fellowship decision. Mr. Pompo replied "no." Mrs. Crook also asked if all five Board Members voted to do so. Mr. Amentas replied that he didn't think there was an actual vote on the issue but there was certainly a quorum with three members deciding to appeal the Zoning Hearing Board decision. Mr. Amentas also stated "You're not suing the ("ZHB") you are appealing the determination that was made by the (ZHB)". Mrs. Crook asked who the three members were. Mr. Makely replied "That is a legal question that happened in an executive session." Mrs. Crook asked why the decision happens in an executive session. Mr. Makely replied "The authorization for Mr. Pompo to proceed with the appeal was done in an executive because it was a legal matter that the board was discussing." Mrs. Crook stated if township money is being spent it should be brought up in front of the public. Mr. Amentas stated that historically decisions to appeal decisions by the ("ZHB") that are made as a board are never discussed in public. It has happened in a few instances not only in the BAWA Fellowship decision but also the "hair salon." However; maybe the process should be reviewed. Mrs. Crook asked "If anything with litigation as far as your mandate or whatever your rules are when there is litigation you're mandated to have an executive session or is that by choice and it's done that way and become a custom versus a rule." Mr. Makely replied "He was always told that kind of situation could not be discussed in a public forum."

Mr. Pompo stated "There are privileges which allow a board to discuss matters in private. (Executive Session) There are only a very few areas where you must do it in an executive session that is where there is a certain personnel thing that cannot be discussed in public because it would violate some other statute. It's not required to have this discussion in executive session it's allowed."

Jim Sisk of 325 Doe Run Road asked if Baron Crest will be ready for dedication once the repairs are completed.

Mr. Makely replied "once the as-builts are complete."

Glenn Colyer of 41 Park Avenue stated that the public should be aware of the BAWA Fellowship appeal because township money is being used. Mr. Colyer asked the total of money spent so far. Mrs. Bukata replied that she will have to check.

Buddy Rhoades 2176 Strasburg Road stated that in his administration the BAWA Fellowship project was taken to court. Mr. Rhoades also stated "They also let the public know about Guy Prange's junk yard and also the BAWA Fellowship situation was done in public but no details were given because they didn't know all the details and when Mr. Amentas was asked if he had any knowledge of the appeal his answer was no. Mr. Amentas responded by saying "Obviously there was a misunderstanding there and if he is asked a question if the township is in pending litigation with the Zoning Hearing Board regarding any issue whether it's the BAWA Fellowship or something else and he knows what the answer to the question is he will answer the question honestly. Mr. Amentas also asked Mr. Rhoades to "please don't suggest otherwise."

ADJOURNMENT: Mr. Amentas made a motion to adjourn the Board of Supervisors meeting at 10:15 PM. Mr. Makely seconded. Vote: Unanimous.

Respectfully Submitted,

Denise Miller, Township Secretary