

EAST FALLOWFIELD TOWNSHIP
BOARD OF SUPERVISORS MEETING
January 24, 2012
Approved minutes
6:35 PM

CALL TO ORDER, SILENT MEDITATION, AND PLEDGE OF ALLEGIANCE

IN ATTENDANCE: Chris Amentas, Temporary Chairman; Mark Toth, Member; Ed Porter, Member; Joe Pomorski; Member, Denise Miller, Township Secretary; Vince Pompo, Solicitor. Mr. Makely was absent.

Mr. Amentas announced that there were Executive Sessions on January 16, 2012 at 6:00 PM regarding personnel issues, January 24, 2012 at 5:30 PM regarding the township audit, and January 24, 2012 at 6:15 PM regarding the park rules.

APPROVAL OF MINUTES:

December 20, 2011 minutes - Mr. Amentas made a motion to approve the December 20, 2011 minutes as presented. Mr. Toth seconded. Sharon Scott asked if the January 24 executive session was open to the public. Mr. Amentas replied "Executive Sessions are not open to the public." Mrs. Scott also stated that the audit and park discussions should be discussed in public. Mr. Amentas replied that the purpose of the audit discussion was only to get the status of the 2010 audit. Mr. Pompo stated that he did not attend the January 24 executive session. He also stated "To hear where a matter stands and not discuss or deliberate taking any action relative to the matter, does not rise to the level of acquiring a public meeting." Mr. Porter asked Mr. Pompo if "personnel issues" could be talked about in a public meeting. Mr. Pompo replied that the discussion of individuals or positions would qualify as an executive session. The discussion regarding "park rules" is not considered an executive session matter. Buddy Rhoades stated that the park rules and the 2010 audit should have been discussed in a public meeting. Mr. Rhoades also stated that since they were discussed in an executive session it makes him feel that something is being "swept under the rug." Mr. Porter replied "I attended all three executive meetings and nothing is being "swept under the rug." Mr. Rhoades asked the Board who sets up the agenda. Mr. Amentas replied that Denise makes up the agenda and sometimes a supervisor will call her and ask that something be placed on the agenda. Mr. Toth informed Mr. Amentas that a vote cannot take place because Mr. Makely is absent. Motion failed.

January 3, 2012 re-organization minutes - Mr. Amentas made a motion to approve the January 3, 2012 re-organization minutes as presented. Mr. Toth seconded. Vote: Unanimous.

January 3, 2012 BOS minutes – Mr. Amentas made a motion to approve the January 3, 2012 BOS minutes as presented. Mr. Toth seconded. Vote: Unanimous.

SOLICITOR REPORT: Mr. Pompo informed the Board that the township received the first half of the civil penalty for Hidden Valley Mobile Home Park in the amount \$6,000.00 as well as the fully executed agreement.

LEGAL ISSUES:

Township liability if residents volunteered and worked in the township – Mr. Pompo informed the Board that he confirmed that the township insurance includes "volunteers" or unpaid individuals as being covered under the policy, which includes appointed volunteers on boards and commissions, as well as volunteers who are not appointed to boards and commissions. In addition, if the township was sued because of an action taken by a volunteer, the insurance would apply. Mr. Porter asked Mr. Pompo if the Boy Scouts volunteered to build something or if volunteers stuffed envelopes in "all office space" would they be covered. Mr. Pompo replied that in the perspective of a "slip and fall" the policy, whether or not they are a volunteer, would cover them. The distinction relative to an injury that would occur at a work place is that an unpaid person is not covered under workers compensation.

Resolution 2012-05 Ridgecrest plan revision – Mr. Amentas stated that the development "Moser" originally submitted a plan that included public sewer and the construction of two sewage pumps. Resolution 2012-05 is to approve a revised plan to eliminate the pumping stations. Mr. Porter asked the Board if they knew who drafted the Resolution. Mrs. Miller replied "Mr. Moser." Mr. Porter stated that he has a problem where it states "WHEREAS there is no benefit to East Fallowfield Township or the residents of East Fallowfield Township to require the construction of the previously approved sewage pumping stations." Mr. Porter also stated that "On the second page of the July 25, 2011 letter it talks about West Chester Road and what they would have had with the 2005 agreement, and now it talks about infrastructure being figured out in the future. This contradicts the resolution stating that there is no benefit because there was a benefit and with the change there is no benefit." Mr. Toth asked Mr. Pompo if this something that the Planning Commission would typically review. Mr. Pompo replied that the January 13, 2012 Jamie MacCombie letter states that the Township Planning Commission, the Chester County Planning Commission, and the Health Department have reviewed the

plans. Approving the resolution does not mean that the planning module is approved; it has to be approved before it can be forwarded to the Department of Environmental Protection ("DEP"). The Board would like more time to review the plans and resolution. Mr. Amentas stated that he would like a letter from Mr. MacCombie specifically addressing the claims that are being made in the resolution. Jim Durborow stated that the township engineer reviewed this matter and all the proper channels were completed. Mr. Pompo stated that from "NOW, THEREFORE" at the bottom of the second page, the last "WHEREAS" concerning zoning subdivision and other ordinances, the "DEP" language as well as the first "WHEREAS" is in the standard form. Mr. Toth asked about the parking issue. Mr. Pompo stated that the issue with parking is in the condition of approval and Mr. Moser still has to provide a plan that complies with those conditions. Mr. Porter asked the Board how this resolution ended up on the agenda. Mrs. Miller replied that when something like this gets submitted to the township it goes on the agenda for Board to approve.

Fairview Design, LLC (\$10.00 increase) – Mr. Pompo stated that Mrs. Haldeman, website designer, agreed to delete the "indemnification provision" and the "payment terms on her contract". Mr. Amentas asked Mr. Pompo if they could replace the "website designer" at anytime. Mr. Pompo replied that as long as the township pays in full for the work already completed. Mr. Amentas asked Mrs. Miller if Mrs. Haldeman invoiced the township for specific work that is asked of her as well as maintenance. Mr. Porter asked Mrs. Miller "Why the budget is over for website maintenance" Mrs. Miller replied "It could be for training." Mr. Amentas stated that he would like to have the website revised so residents can locate information easier and quicker. Mr. Porter asked Mr. Toth if he thinks this can be accomplished. Mr. Toth replied that he recalls that Mrs. Haldeman did not have the time to do this work previously. Mrs. Miller stated that Mrs. Haldeman has hired an employee to work for her. Mr. Toth informed the Board that a few residents have offered to do the website for free but would like to put advertisement on the website. Mr. Amentas made a motion to approve the 2012 Fairview Design, LLC contract at \$80.00 per hour. This is a \$10.00 increase. Mr. Toth seconded. Buddy Rhoades stated that this service should be put out to bid like the Board previously said. Mr. Rhoades also stated that "Conrad" has offered to work on the website for free. Mr. Amentas stated that the township does not put everything out to bid. Sharon Scott suggested creating a "form" in order to remove something from the website. Mrs. Scott also stated that the 2012 budget needs to be loaded onto the website. Vote failed. Mr. Amentas stated that the board needs to identify the impact to the township. Siti Crook stated "It would cost more than what has been budgeted; to revise the website".

TowerCo. "Right of First Refusal" – Mr. Toth asked Mr. Pompo if a motion is needed in order to deny this. Mr. Pompo replied that the Board could write a refusal letter or just not respond. Mr. Pompo presented the Board with a TowerCo. "Right of First Refusal" meaning that if another company that provided similar services would make an offer to the township to purchase or lease an area on the township property. Mr. Pompo also stated that the \$1,000.00 for this is not worth it. The Board agreed.

Legal parameters of a "Cloud based storage system" – Mr. Porter asked Mr. Pompo if he had time to review how this system works. Mr. Pompo replied that the regulations of the Municipal Records Retention Act has not directly addressed the "Cloud." The three guidelines that could cause a issue are, where any record which you must keep permanently must be kept in a non-electronic form, so any permanent record could not be kept in a "Cloud", an electronic system has to be capable of backup by the municipality, and any electronic retention has to be in a form so that the township can retrieve documents as you upgrade technology. Mr. Porter asked Mrs. Miller if she is aware of what records are keep permanently versus non-permanent records. Mrs. Miller replied that she references the "Municipal Records Manual."

The Board excused Mr. Pompo from the meeting at 7:45 PM.

CITIZENS by REQUEST:

Buddy Rhoades of 2176 Strasburg Road asked who amended the budget. Mr. Rhoades also asked Mr. Amentas if he went out to the Kerstetter property to evaluate the riding of ATV's. Mr. Amentas replied that he has not gone out to the Kerstetter's property yet. Mr. Porter asked the Board if they knew who changed the earned income figure. Mr. Amentas replied that he spoke with Mr. Pomorski and Mr. Makely about this adjustment. The reason for this adjustment is because the township received more money than anticipated. Mr. Porter stated that the point of his question is that one board member cannot make a change. Mrs. Moore, township bookkeeper, stated that the adjustment was made on the Friday before the Saturday budget meeting; which was cancelled due to snow.

John Davis of 224 Wilmington Road stated that he has called the police regarding the riding of ATV's and was told that there was nothing they could do about it without an ordinance. Mr. Davis also stated that a 100 foot setback is not enough. Mr. Amentas responded by stating that he will go out to Mr. Davis' property. Mr. Porter asked Mr. Davis if it was ok for other supervisors to visit his property. Mr. Davis replied that if you feel you must visit his property then it is ok.

Siti Crook of 2840 Strasburg Road asked the board if "Lamb McErlane" invoiced the township for fulfilling her right to know

request. Ms. Crook also spoke about the "Fellowship" zoning hearing and who Solicitor Pompo represented, the township or the board.

Joseph Dalesandro of 1607 Horseshoe Trail was not present.

TREASURER'S REPORT:

December 31, 2011 treasurer's report – The December 31, 2011 treasurer's report was tabled because there were not 3 supervisors present at the meeting that were present in December 2011.

December 2011 payment authorization – The December 2011 payment authorization was tabled because there were not 3 supervisors present at the meeting that were present in December 2011.

2012 Elected Auditor's report presented by Secretary Jim Sisk – Mr. Jim Sisk presented the Board with the January 4 and January 23 elected auditor's report. By unanimous vote the elected auditors declined compensation for their services. \$12.00 for secretarial and labor duties and \$15.00 for treasurer and snow removal duties were unanimously accepted.

Mr. Sisk stated that supervisors should not have been paid last year because an ordinance was never passed to do so. Mr. Porter replied that ordinance 2002-03 states that supervisors shall be paid 2,500.00 yearly.

Mr. Amentas asked Mr. Sisk if he was referring to him regarding the "Comments made by the Chairman of the BOS during 2011 that East Fallowfield needs to implement a real estate tax on the residents of East Fallowfield." Mr. Sisk replied "yes." Mr. Amentas asked Mr. Sisk when that comment was made. Mr. Sisk replied "Four times in 2011, with the last time being October where you said you could see no other way to implementing a real estate tax." Mr. Amentas asked Mr. Sisk "No other way to do what." Mr. Sisk replied "To meet the budget." Mr. Amentas replied "In terms of having to meet the budget, the 2011 budget revealed actually that you don't. The township ended up doing considerably better than anticipated." Mr. Amentas also stated that he doesn't believe that is the case anymore.

Mr. Amentas asked Mr. Sisk about the "Philadelphia rule" comment that is in the minutes. Mr. Sisk replied that if someone is running for an elected office other than the one they currently hold, they resign from the position. Mr. Porter stated that Mr. Sisk made some good suggestions in the minutes. Mr. Porter also asked Mr. Sisk if he knows the rental amount of the township tower. Mr. Sisk replied "\$2,500.00 per month."

2012 Elected auditor chairman Sharon Scott – Mrs. Scott stated that the township is years behind in advertising the "Concise Financial Statements." Mrs. Scott asked the board the amount of money the General Fund had to subsidize in covering the escrow monies not handled properly.

Mrs. Scott stated that when Mr. Sisk says "we, we, we" it wasn't "we, we, we" it was him. Mrs. Scott commended Mr. Sisk for bringing up all of the ideas however; she finds them evidentiary at this point. Mrs. Scott also told the Board that she doesn't concur, nor approve the elected auditor's minutes. Mr. Porter stated to Mrs. Scott that he is not out to harm his public trust. Mr. Amentas stated that he believes that some items that were discussed during the "auditor's meeting" possibly should have been discussed in public.

Set a time for the February 15 budget adoption meeting – The board agreed to move the February 14 workshop to February 15 after the "budget adoption" starting at 5:00 PM.

PARK AND RECREATION:

January 2012 summary – The January 2012 summary was presented.

December 2, 2011 minutes – The December 2, 2011 minutes were presented.

Mr. Carling asked for Board approval to explore establishing a "501c3" which is a non-profit organization to replace the inactive "Friends of the Park." Mr. Amentas stated that if the cost is too much then he will review it. Mr. Porter asked Mr. Carling "What is governing the fact that they cannot accept charitable donations to the park itself." Mr. Carling replied that his understanding is that "Friends of the Park" can be setup as a 501c3 but the Park and Recreation Commission cannot. Mr. Porter asked Mr. Carling if there is a list of past charitable donations. Mr. Carling replied that donations were received but the establishments did not receive the tax benefit. Mr. Ken Hanson, past member of the "Friends of the Park", stated that he believes that "Friends of the Park" may already have a 501c3 document.

HISTORICAL COMMISSION:
No reports submitted.

PLANNING COMMISSION:

Comp Plan update – Jim Durborow, Chairman, stated that Ray Ott, Planning & Landscape Architecture, has offered to attend a BOS meeting and review the grants that are being offered by the Chester County Planning Commission. Mr. Porter asked Mr. Durborow when the grant deadlines are. Mr. Durborow replied that the first deadline is March 9, 2012.

Mr. Durborow would like the Board to clarify if the Planning Commission is increasing their members from seven to nine. Mr. Amentas asked Mr. Durborow if he had two more candidates. Mr. Durborow replied that the township website stated that the Planning Commission is looking for two more members. Mr. Porter asked Mr. Durborow his recommendation on adding two more members. Mr. Durborow replied that they have a good working number and there will be a term expiring at the end of 2012.

POLICE DEPARTMENT:

December 2011 police report – No presentation – see report.

Mr. Toth stated that Chief Porter is not in attendance because he is investigating a home break in. Mr. Amentas asked if the break in is in the township. Mr. Toth replied “yes.”

PUBLIC WORKS DEPARTMENT:

December 2011 road and vehicle report – No presentation – see report.

December 2011 recycling report – No presentation – See report

Mr. Porter asked the Board Member if they knew who authorized the trial use of the “Skid Steer.” The Board replied “They did not know.” Mr. Amentas asked Mrs. Miller if she knew. Mrs. Miller replied that she did not know. Mr. Amentas stated that he will ask Tag who authorized it.

EMERGENCY SERVICES:

Pomeroy volunteer firefighters’ relief association compliance audit report for January 1, 2007 to December 31, 2009 – No presentation – See report.

UNFINISHED BUSINESS:

Regional Appeals Board – Mr. Amentas stated that it would be beneficial to the township to appoint someone to this position. Mr. Amentas also stated that there have only been six to seven appeals over an eighteen month period. Mr. Porter asked Mrs. Miller if she knew what the yearly fee is. Mrs. Miller replied that the fee has not been determined yet.

Collection Specialists delinquent trash accounts – Mr. Amentas stated that it is appropriate to keep the six to eight delinquent accounts with Collection Specialists because they already have payment plans setup.

Township Manager update – Mr. Amentas stated that the majority of the board would like to find a township manager.

Authorization to “bid out” township services – Mr. Amentas reclused himself from participating in discussion regarding the “bidding” of the ‘Township Solicitor’ and ‘Zoning Solicitor’ because he is considering a run for the State Senate and is getting some support from the local Republican party. Mr. Amentas also stated that “Lamb McErlane” and “Buckley Brion” are contributors to the Republican Party and posted on the board at the Republican Party headquarters. Mr. Porter informed the Board that Mrs. Miller previously stated that she has received multiple emails from surrounding municipalities regarding their solicitor hourly rate and our township was the highest. Mr. Porter also stated that he would hope that “Lamb McErlane” would submit a bid, as well as others. Mr. Pomorski made a motion to place a “bid” in the paper for township legal services. Mr. Porter seconded. Mr. Pomorski amended his motion to advertise for township solicitor for legal services for the Board of Supervisors. Mr. Porter seconded. Mr. Amentas abstained. Vote passed.

Mr. Pomorski made a motion to advertise for “bids” for township zoning solicitor services. Mr. Porter seconded. Dennis Crook asked if there are two solicitors at a zoning hearing board hearing. Siti Crook stated that when she went to the zoning hearing board there were two attorneys. Mr. Amentas abstained. Vote passed.

Mr. Amentas stated that you have to take into account the information that Jamie MacCombie has and his services are

only retained to work on certain projects.

Mr. Amentas made a motion to solicit applicants for future township sewer consultant services. Sharon Scott stated that all documentation should be on file in the township office. Buddy Rhoades stated that there are quite a few "sewer consultants" to choose from. Vote: Unanimous.

Township credit card Resolution 2012-03 – Mr. Amentas made a motion to approve Resolution 2012-03 authorizing a new First Niagara Bank credit card in the name of Denise Miller with a limit of no more than \$2,000.00. Mr. Toth seconded. Buddy Rhoades stated that the credit card should be in the treasurer's name. Mr. Porter replied that the township is trying not to use petty cash and document small purchases by using a credit card. Sharon Scott suggested putting the credit card in Mrs. Miller and Mrs. Moore's name. Vote: Unanimous.

First Niagara Bank authorization Resolution 2012-04 – Mr. Amentas asked Mrs. Moore if the township has other accounts other than in First Niagara Bank. Mrs. Moore replied that there is an inactive General Fund account at TD Bank just for un-cashed checks. Mr. Pomorski asked how many checks are not cashed. Mrs. Moore replied "Approximately 50-70 checks." Mr. Amentas asked Mrs. Moore how that money is accounted for. Mrs. Moore replied that technically someone could find a check from two years ago and cash it. Siti Crook asked if checks are void after one year. Mr. Pomorski replied that it depends on the establishment. Mrs. Moore stated that Dave Barrett, auditor, said that after nine months the township should have called who the check was made out to and ask them if they actually received it. Sharon Scott commented on township check cashing and township funds. Mrs. Scott asked the Board the amount of township funds. Mr. Amentas replied "The General Fund, Payroll, Liquid Fuels, Capital Projects, Escrow Accounts, and the Park and Recreation account. Mrs. Moore stated that 99.99% of payroll transactions are automated in the system. Mr. Amentas stated that since Mr. Porter and Mr. Pomorski will abstain he will make two separate motions and then a motion to approve the resolution. Mr. Amentas made a motion to add Ed Porter as a check signer for purposes of all the First Niagara Accounts. Mark Toth seconded. Mr. Porter abstained. Vote passed. Mr. Amentas made a motion to add Joseph Pomorski as a check signer for purposes of all First Niagara accounts. Mr. Pomorski abstained. Vote passed. Mr. Amentas made a motion to approve Resolution 2012-04 which authorizes Ed Porter and Joe Pomorski official authorization as check signers for purposes of all of First Niagara Bank accounts. Mr. Porter and Mr. Pomorski abstained. Vote failed.

Snow removal draft ordinance – Mr. Amentas presented a draft snow removal ordinance which would essentially require owners, persons in charge or control of land fronting a sidewalk to clear the sidewalk within 24 hours of any snow storm. It also provides for a fine violation of not less than twenty five dollars and no more than one hundred dollars and, together with court costs, reasonable fees, and possible incarceration. Mr. Amentas made a motion to advertise an ordinance amending chapter 21 of the township code of ordinances by adding a new part 4 pertaining to snow removal. Mr. Pomorski seconded. Mr. Amentas asked "What is chapter 21." Mrs. Miller replied "snow removal." Jim Sisk asked the Board why the township would get involved in a home owners association (HOA) situation. Mr. Amentas replied "To assist the home owners association in dealing with something that he believes is a public safety issue." Buddy Rhoades stated that the township should not take over any responsibility from the (HOA). Mr. Amentas responded by stating "If you have an ordinance like this on the books it certainly would make it less important for a (HOA) to do something on their own." Mr. Porter stated that there have been no other complaints except from the (HOA) president. Mr. Porter also stated that the township does not have the manpower to enforce this ordinance. Jim Sisk said that if this is passed it will set a precedent with other developments. Sharon Scott stated that the (HOA) should send a letter to their residents regarding shoveling their sidewalk. Siti Crook stated that the (HOA) could attach a fee to their yearly fee for snow removal. Mr. Amentas withdrew his motion.

NEW BUSINESS:

Abolish the office, police, and public works liaisons – Mr. Toth and Mr. Porter said "If the board members are essentially "messengers" then maybe they should abolish the position of liaisons. After Board discussion Mr. Toth made a motion to abolish the office, police, and public works liaisons. Mr. Amentas seconded. Jim Sisk stated that the Board was elected to supervise. Mr. Sisk also stated that the township does not need a manager with five supervisors. Mr. Amentas replied "In most cases none of the supervisors are comfortable making unilateral decisions and they can't make a decision as a group outside of the public domain." Buddy Rhoades stated that a liaison has the authority to make a decision and the other supervisors should back that decision. Buddy Rhoades also stated that the supervisors should resign if they don't have the time for the position. Mr. Amentas stated that he disagreed with Mr. Rhoades that the supervisors are shedding their responsibility. Mr. Amentas also stated that a liaison does not direct anyone; they are just a messenger. Mr. Porter stated that if a supervisor approached an employee and asked them to do something they could possibly say that it takes two more supervisors to direct me to do something. Sharon Scott stated that this is a personnel issue. Mr. Toth withdrew his motion.

Switch from Comcast Internet service to FIOS Internet service – Mrs. Moore presented the Board with the police station and township office FIOS internet service agreement. Mr. Porter asked Mrs. Moore if the installation fee is free of charge. Mrs. Moore replied that she will find out and let the Board know. Mr. Toth made a motion to switch from Comcast Internet to FIOS Internet. Mr. Porter stated that he would vote to install FIOS in the township and would like to talk about the pros and cons of moving the police station to the township meeting room because the township is paying for service in two buildings. Motion failed due to no second.

PUBLIC PARTICIPATION:

A resident stated that the American flag at the township memorial needs replaced. Mr. Amentas directed Mrs. Miller to have the flag replaced.

Nancy Simes of 1508 Robin Road stated that the road was icy from 15th Avenue to 17th Avenue because of water running down the road.

Dennis Crook of 2840 Strasburg Road stated that the 2012 Vision Partnership Program grant round I opened January 9, 2012.

Rosemary Moore stated that she has quarterly PMRS checks that need to be signed.

Buddy Rhoades of 2176 Strasburg Road said that the price of the 2012 Dodge Charger was not mentioned in the December minutes and that the Board did not appoint a new right to know liaison. Mr. Rhoades also asked if the township was still paying for the S.W.A.T trailer.

John Davis of 224 Wilmington Road asked the Board when they are going to vote on the ATV ordinance. Mr. Amentas replied that he would like to do that next month. Mr. Porter stated that he experiences ATV riding on the power line.

Jennifer Kerstetter stated that it is illegal to ride on the power line and the draft ATV ordinance is to govern ATV riding on personal property.

John Schlage of 1650 Goosetown Road stated “Now that the township has five supervisors, hopefully more people attend the meetings.”

ADJOURNMENT: Mr. Amentas made a motion to adjourn the Board of Supervisors meeting at 11:10 PM. Mr. Toth seconded. Vote: Unanimous.

Respectfully Submitted,

Denise Miller,
Township Secretary