

**FRANKLIN TOWNSHIP
BOARD OF SUPERVISORS MEETING
February 15, 2006**

Chairman Whipple called the meeting to order at 6:30 p.m. Present were Vice Chairman Teddy Price and Supervisors Juanita Bennett, Roger Wilson and Norman Hughes. Also present were PC Chairman Eric Brindle, Interim Township Mgr. Stephen Ross, Township Solicitor Vince Donahue and Township Engineer John Theisen. There were approximately thirty attendees. A number of consultants and officials were also present.

Public Comment:

The following questions were asked from the floor:

1) Will the Solicitor provide a status report on the law suits that are pending in the Township?

Chairman Whipple stated that the Solicitor will provide that information when he gives his report this evening.

2) Will there be an opportunity for questions from the floor during the public hearing on the Comprehensive Plan?

The Chairman stated that there will be the opportunity for discussion from the floor.

3) When Ordinances are discussed will the change in acreage be discussed, i.e., one (1) house/10 acres being changed to two (2) houses/acre?

Vice Chair Price indicated that the information stated is incorrect in both instances and Chairman Whipple indicated that tonight the Board will only be voting on the approval to advertise that the Ordinance will be discussed and possibly voted on at a future date. No action regarding approving or not approving this proposed ordinance is to occur tonight.

Approval of Minutes - January 18, 2006:

Vice Chair Price moved to approve the minutes of the January 18th meeting of the BOS as submitted. Supervisor Bennett seconded the motion. The motion carried unanimously.

Treasurer's Report - January 31, 2006:

Township Mgr. Ross, reporting for the Treasurer, stated that the report provides the balances for the various funds of the Township totaling \$1.4 million. Mr. Ross indicated that he would not go into detail but would answer any questions from the Board. Copies of the Treasurer's Report are available for the public.

Vice Chair Price moved to accept the Treasurer's Report of January 31, 2006 as submitted. Supervisor Bennett seconded the motion and it carried unanimously.

Manager's Report:

Township Mgr. Ross indicated that his written report has been distributed to the Board. Mr. Ross highlighted the following:

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- The review of escrow accounts has been completed and refunds have been sent to nine applicants that are either finished with the subdivision process or that have had no activity for years on the associated proposed plans.
- The Solicitor has met with the principals of Comcast and the proposed franchise agreement will be presented to the Board in the immediate future.
- Members of the Township Staff met with a representative of H. A. Thomson to review the various insurance policies of the Township. A follow-up report will be made to the Board if necessary.
- The Staff has dealt with situations in 18 separate developments since the last report.
- Regarding the various sporting leagues, agreements will be discussed later in the agenda.
- The MS4 program is also on the agenda for approval tonight. The Brandywine Valley Association is proposing to provide public participation and information component of that program.
- The Township is looking into the gravel road maintenance program sponsored by the Chester County Conservation District and the State. The Township has two gravel roads which could qualify for grants of \$10,000 each.

The Board thanked Mr. Ross for his report.

Solicitor's Report:

Township Solicitor Donahue apologized to the Board indicating that he is not prepared this evening to give a status report on the pending litigation in the Township. He explained that there are various matters of his firm working on different matters in which the Township is involved and those matters are at different levels of activity. There will be an Executive Session following this meeting to discuss any settlement negotiations that are pending. Specifically, the Echo Hill/McMaster matter will be discussed at Executive Session. He did not have prior notification of any other discussions for this meeting.

A resident, Nancy Chromey requested that the Board and the Solicitor plan such a status report in the near future and suggested that it would be helpful to inform the public of the principles used in negotiating settlements. Her concern is that the Township may be negotiating with developers in the name of the community and because the developers have more money than the Township, the Township may be forced to accept a settlement that is not in the best interest of the Township or its' residents.

She asked if the Township is pursuing the lowest density legally permitted or are there other considerations and, if so, what are they?

Chairman Whipple asked the Township Mgr. and the Solicitor to follow up on this request for a future meeting.

In answer to a question from the floor, resident, Jeff Bennett, regarding the number of legal actions pending, Vice Chair Price gave the following summary:

Miller Tract: Located on Parsons Rd. adjacent to Crossan Park. The Township has two lawsuits pending. 1) The developer has challenged the denial of the development plan which was denied by the prior BOS several years ago. The Township has been successful in the State Court action. 2) The developer also sued the Township in Federal Court claiming a violation of civil rights. The Township has received favorable decisions at the Federal District Court level and the Third Circuit Court of Appeals.

A second civil rights suit was filed by the developer when the new Board was elected two years ago, in an attempt to make the two new Board members, Teddy Price and Vaughn Charlton, defendants in the action. That claim has been on hold pending the Third Circuit decision. Now that we have a favorable decision from the Third Circuit, the developer has the right to appeal to the Supreme Court.

The costs associated with the defense of the above noted civil rights actions are paid for through Township insurance policies.

There is a zoning aspect of this case which is on hold pending the outcome of all of the above.

Echo Hill Commercial: Preliminary approval of the Plan was denied by the Board and the developer challenged the denial in court. The Township is in settlement negotiations with the developer which are ongoing. Also involved was a challenge to the sewer planning module which involved public sewer. The Township hired URS to review the plan and the developer wanted the Township to move it along faster than the Township was prepared to under the circumstances of bringing in a new consultant. After various court rulings, planning module material, along with supplemental material from the township, was sent to DEP.

Bids

Township Mgr. Ross presented a summary of each item that was put out for bid along with his recommendation on each.

Mowing Services - Township building: The lowest responsible bidder was White Clay Lawn Service at an estimated cost of \$13,488. This firm has performed these services for several years and their work has been satisfactory. Mgr. Ross recommends that the Board award the bid to White Clay.

Supervisor Bennett moved that the bid for Township lawn mowing services be awarded to White Clay Lawn Service. Supervisor Roger Wilson seconded the motion. The vote was unanimous and the motion carried.

Roadside Mowing Services: The apparent low bidder is All Seasons at a bid of \$24,083.05. The bidder, Stephen Gansz, has withdrawn his bid. Therefore, Mgr. Ross recommends that all bids be rejected and the Township re-bid this service.

Chairman Whipple moved that all bids for Roadside Mowing Services be rejected and that the Township re-bid the item. Supervisor Bennett seconded the motion and it carried unanimously.

2006 Road Program: The lowest bidder was D. Malloy, Inc., at \$789,307 which is higher than the Engineer's estimate by approximately \$178,379. Mgr. Ross suggests three options as follows:

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- 1) John Theisen recommended that the Township scale back the scope of work as shown in LTL's letter of February 6, 2006.
- 2) Modify the bid specifications, re-bid the work and hopefully receive more bids. Mgr. Ross questioned whether this is a realistic option.
- 3) Award the contract to D. Malloy, reduce the scope of work as much as is reasonable, but not eliminate any of the roads on which work is planned, and borrow internally or, if money is available because of additional revenue, try to accomplish the total amount of \$789,307. Mr. Ross recommends this option because the residents have been promised that certain roads would be repaired in 2006 and because he doesn't believe that re-bidding the job would result in a lower bid.

In answer to Supervisor Wilson's request for details, Township Mgr. Ross explained that he would scale back other less critical maintenance jobs for which money is budgeted, or money could be borrowed from other Township funds, whichever the Board feels more comfortable doing.

Supervisor Wilson moved that the Board approve Option 3 with the understanding that the work described in the bid package will be completed and that the costs will be covered by delaying other less critical maintenance programs and that the Board will be advised if borrowing from other internal funds or external sources is necessary. Supervisor Hughes seconded the motion. The motion passed unanimously.

Agreements:

Mgr. Ross referenced Asst. Township Mgr. Eastburn's memo to the Board outlining agreements with Avon Grove Little League, Avon Grove Recreation Association, White Clay Soccer Club and Avon Grove Flag Football which are being submitted to the Board for approval.

Mr. Eastburn advised the Board that drafts of the agreements have been mailed to the respective organizations and he has spoken to the principals of each of the leagues. They understand the agreements and are satisfied with the allocation of field time they have received.

Chairman Whipple moved that the Board approve the contracts with Avon Grove Little League, Avon Grove Recreation Association, White Clay Soccer Club and Avon Grove Flag Football. Supervisor Bennett seconded the motion. The vote was unanimous and the motion carried.

Brandywine Valley Association - MS4:

Township Mgr. Ross advised the Board and those present that the MS4 program is a state mandated program to eliminate illegal discharges from the stormwater sewer systems in the Township. Mr. Ross has discussed this with Engineer Theisen and the Township Building Inspector is issuing a pamphlet with each building permit as required by the DEP.

Other components of the MS4 program are MCM#1 and MCM#2 which cover public education and outreach, and public participation. Brandywine Valley Association (BVA) is currently handling this portion of the program for 25 municipalities within

Chester County at a cost of \$500 each. If there are additional costs, Franklin Township would pay 1/26 of the total cost. Mgr. Ross recommends that the Board approve the agreement with BVA for \$500 which represents significant savings to the Township over what it would cost the Township to implement this portion of the program on our own. If approved, BVA will present a slide presentation to the Board at a future meeting.

Engineer Theisen supports the approval of having BVA provide this service and added that another component of this program is testing dry weather flows from pipes/swales. He expects to have someone in the Township accomplish that portion of the program in the coming week.

Supervisor Bennett asked if sewers would be tested for discharge into streams, etc. Engineer Theisen advised that this program is strictly for storm water discharge.

Chairman Whipple moved that the Board approve Brandywine Valley Association as the Township's public outreach provider for the MS4 program. Supervisor Bennett seconded the motion.

Supervisor Wilson asked Mgr. Ross to explain the reference on page 1 of the proposed agreement with BVA to costs not exceeding \$3,000.00. Mr. Ross advised that it is his understanding that if costs exceed \$500, the Township will pay 1/26 of those costs, not to exceed \$3,000.00.

The vote was unanimous and the motion carried.

Planning and Zoning:

Final Plan – David Marshall: Mgr. Ross referenced his memo of February 9, 2006 with attachments relative to the review by the Township Engineer of the Marshall property. Mr. Ross summarized that this is a 27.38 acre parcel, principally in New London Township. The portion in Franklin is 8.355 acres which remain undisturbed by the two-lot subdivision being proposed by the plan. He recommends that the BOS accept the recommendation of the Township's Planning Commission and approve the Marshall Plan.

Chairman Whipple moved that the David Marshall Final Plan, dated 2/11/05, last revised 1/24/06, be approved. Vice Chairman Price seconded the motion. The motion carried unanimously.

Comprehensive Plan (The Plan): Chairman Whipple introduced Mr. Thomas Comitta of Comitta Associates who presented the following synopsis of the Comprehensive Plan to the Board and those present.

Mr. Comitta summarized the method by which the Township approached the task of revising the Township's Comprehensive Plan which included the formation of a Township Committee which was guided by representatives of three organizations, i.e., Tom Comitta of Thomas Comitta Associates, Robert Lonsdorf and Kevin Anderson of Brandywine Conservancy and Brian Gish of RETTEW.

Mr. Comitta explained that the Comprehensive Plan is a land use plan which is proposed to cover the next ten years. The Township's last comp plan was prepared in 1991 and in August of 2000 the State Planning Code was revised to require an update every 10 years. Article III of the Municipalities Planning Code (MPC) sets the requirements for the Plan.

One of the requirements is that the Plan must be sent for review at least 45 days prior to the required public hearing. Franklin's Plan was sent out 48 days ago (December 29, 2005) to the Chester County Planning Commission (CCPC), the School District, the adjoining municipalities and to the Franklin Township Planning Commission (PC) and Comp Plan Committee. Comments were received from the CCPC and the Township's PC and revisions were made. At their February 2nd meeting the Township's PC recommended to the Board that they approve the Plan.

Mr. Comitta stated that the purpose of tonight's public hearing is to take additional comments and allow the Board to take whatever action they deem appropriate. The CCPC will reimburse the Township for 75% of the cost of preparing the Plan if it is adopted by March 31, 2006. If the Plan is not adopted by the end of March the Township will be required to start over and there will be no reimbursement from the County.

Mr. Comitta outlined the contents of the Plan identifying the chapters that were prepared by each of the three consultants. He advised that the overall concept of the Plan is to create a development pattern in the Township that is controlled, not random. High density development would occur in the Village and the Moderate Intensity Use Area and lower density in the more rural areas.

He then explained the process that occurred after the completion of the December 29th draft which included an informal public meeting on January 19, 2006 and the PC meeting on February 2nd. Additional comments were received from both of these meetings and edits and revisions were made to the 12/29/05 draft of the Plan including the CCPC letter of February 8, 2006.

Mr. Comitta explained that because the Plan will be adopted by Resolution, changes may be made right up to the 11th hour as long as the Resolution adopting the Plan identifies those changes and/or revisions.

At this point Mr. Comitta presented portions of the Plan from the easel, beginning with the twelve (12) maps. He briefly explained the purpose and content of each map clarifying the legend (color coding) of each. Several of the maps depict the resources of the Township and others indicate the land use up to the current time. Figure 5-2 entitled Future Land Use Plan, expresses the Township's concept of future land use for the next ten (10) years and is possibly the most important map in any Comprehensive Plan.

Mr. Comitta proceeded to explain how the infrastructure, i.e., the utilities plan and water supply plan described in Chapter 10, might be extended in the Township. The goal is to concentrate the infrastructure availability in the Village and Moderate Intensity (blue and orange) areas on the map. He explained that the adoption of the Comp Plan does not affect the Zoning Ordinance. If, in the future, the Township wanted to change the zoning to allow more density in the Village or the extension of sewer and water in association with higher density, or to have certain requirements for protecting agricultural land, those changes could be made.

Mr. Comitta ended his overview of the Plan by stating that the purpose of a 10 year comprehensive plan is to provide the means by which a community can maintain a balance between the development of their community and the protection of the land resources that attracted them to the area in the first place.

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Mr. Comitta provided copies of the changes/revisions that have been made to Township Mgr. Ross and members of the Board.

- Franklin Township was identified on the cover page.
- A project participants' page was added.
- The next three pages are changes to the Tables of Content.
- One of the most substantive changes occurs on Page 1-2 and 1-3. The County asked for a short summary of the essence of the Plan. We highlighted Chapter 2 which gives the Goals and Objectives and provides the Mission Statement; all 12 maps and plans; and the wish list over the next 10 years as outlined in the charts in Chapter 13.
- In Chapter 4 we clarified site names.
- Substantive change on page 5-5. The PC recommended a foot note or a highlight of what is meant by the Natural Resource Protection Area.
- Pages 6-7, arithmetic changes on the number of lots that are already approved in various sections of the Township.
- Page 6-8, the 2005 building permits were added.
- Page 6-10 accommodate a fair share of growth and development in sync with that map.
- The meaning of TDR (Transfer of Development Rights Program)
- Typos in chapter 7 were corrected.
- Page 9-2, the PC asked that reference be made back to the Goals.
- Page 9-3, references to Fair Hill and Strawbridge properties highlighted.
- PC recommended talking about agricultural uses that are worthy of preservation and conservation.
- Page 9-8, talked about the 125 acre golf course purchased by the state of DE.
- Page 9-11, talked about prime agricultural land.
- Page 10-2, the County said to clarify what we were talking about so references were added to Kemblesville Village.
- Page 12-1, wording changes.
- Page 13-1, County said to change the words from "should be adopted" to "must be adopted".
- References on Page 13-5 and 13-9 to prime agricultural land.

- Page 13-6, a plug for fair share growth.
- Page 13-11, referenced map and explained OLDS and COLDS, On-Lot (sewage) Disposal Systems and Community On-Lot (sewage) Disposal Systems, respectively.

At this point Mr. Comitta opened the meeting for questions and comments from the public. A very extensive discussion facilitated by Mr. Comitta followed which lasted more than 5 hours, during which everyone in the room had the opportunity to ask their questions and make comments. The following is a summary of that discussion.

A number of those present felt that the Comprehensive Plan as a long-range planning document is well done and will be a good planning guideline for the Township. However, the farmers and/or owners of the larger parcels of land, which were a majority present at the meeting, in the outlying or more rural sections of the Township expressed great concern that their land will eventually lose value because of the 10-20 acre zoning which the Plan refers to as being appropriate for effective Agricultural Zoning (green areas on the map).

When members of the Board and members of the Comprehensive Plan Committee attempted to dispel their concerns, stating that rezoning had not even been discussed during the creation of the Plan, that Figure 5-2 depicts a "concept" for the preservation of open space and rezoning would only be considered after much more in-depth factual information is obtained, they were met with strong, sometimes emotionally expressed, disagreement from several residents. Disbelief was expressed by many that zoning had not been discussed during the three (3) years that it took to develop this document.

Ms. Jane Brown , resident, strongly disagreed that rezoning is not part of the Plan saying that creation of a new zoning ordinance in the short term is clearly stated as one of the goals of the Plan. The Plan also says the objective is to change the ordinance to require minimum lot sizes of 20-25 acres.

This concern regarding the goal to rezone the properties in green on the map was repeated by most of the landowners in the room. Mr. Americo Patone and Mr. Jeff Bennett, both owners of approximately 40 acres, expressed their concerns regarding the devaluation of their properties. Mr. Bennett stated that most of the landowners in the Township consider their land as their retirement fund and/or their children's education fund and it is not fair to target one segment of the Township's population.

Mr. Jay Brown, who owns what he describes as the only working farm remaining in the Township -- 142 Acres -- said it has taken three generations to pay for the farm and gradually the value has been eroded by various environmental regulations and now the zoning that is being proposed. His daughter, Amy Rector, said she feared her parents could lose everything they have worked for all these years.

Similar comments were made by others around the room, i.e., John Boxler, Dale Nowland, Kelly Andrews, etc. At every opportunity, Mr. Comitta and members of the Comprehensive Plan Committee attempted to assure the residents that there was no intent on the part of the Township to devalue their land. Other members of the public who made comments were Ethelbert Ott, Dave Woolens, Jay Brown, Jane Brown and Debbie Hinderer.

Vice Chair Price, who in addition to being on the Board is also a member of the Comprehensive Plan Committee (dual membership is permitted by the MPC), stated that many of the changes that have been made to the Plan reflect what the Committee learned from the survey that was taken by Brandywine Conservancy in 2003. Use of the survey was criticized by some because only 406 residents responded out of 1,500 property owners that received surveys. Ms. Price made the point that neither the Board nor the Committee has the power to make people become more involved in the Township. The Committee met over a period of 3 years in order to meet the mandate of the County to produce a new Comprehensive Plan. When Mr. Comitta asked earlier how many of those present had attended any of the Comp Plan meetings, several persons raised their hands.

Ms. Nan Latimer, a resident of the Township for 12 years and the owner of approximately 40 acres, is also a member of the Comp Plan Committee and is supportive of the Plan.

Mr. Eric Brindle, who is the current chairman of the Township's Planning Commission, a member of the Comp Plan Committee, and a resident of the Village is supportive of the Plan. He stated that he understands the concerns of the residents but believes that if this Plan is implemented it will promote commerce in the Village area, provide revenue to the Township and will help with taxes, and it will help to maintain a rural atmosphere by preserving open space and creating trail systems in the rural areas which will enhance land values and provide a desirable place to live - one that people will pay to live in.

The other main issue which caused concern to the residents was the proposed use of Transfer of Development Rights (TDR) which is suggested in the Plan as a method by which farmers and large landowners can achieve the current fair market value for their land while continuing to live on their property, by selling their development rights to a developer who will use those rights in a higher density area. The concept depends on many facets coming together at the right time before it could be a feasible solution. Mr. Comitta said that it would take at least 6 months to fashion a true TDR program and is something for the Township to consider in the future.

Mr. Comitta attempted to assure the landowners that it was never the intent of the committee, the Board or the consultants to devalue their land. He assured everyone that wording changes would be made to the Plan that would hopefully allay their fears. There were comments suggesting that he might make changes to "sugar coat" the reality of what will actually occur. He responded by indicating that he has a reputation to protect and that he is in this for the long haul and is not going to BS anyone.

Jane Brown wanted to be sure that all the residents of the Township have the opportunity to read the Plan. Different methods of communicating it to everyone were discussed, including placing it on the Township website and/or on a CD.

Vice Chair Price made the point that the 1991 Comprehensive Plan contained almost identical recommendations as this Plan, such as preserve the rural character of the Township, consider large acre zoning, promote equestrian use and alternative farming such as vineyards, consider open space preservation ordinances, etc. The document was created and was then shelved. As a result the Township has been developed in a scatter shot way. This Plan is an attempt to adopt a rational plan to

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accommodate the growth that is inevitable while preserving the land and maintaining the rural character of the Township.

Ralph Olivier said every time a farmer sells out to a developer and houses go up, his property value goes down and his taxes go up. Some farmers walk away with millions and he loses money and never gets a chance to recoup

Two acre zoning was mentioned by Supervisor Bennett as a stop gap measure to slow things down. Ralph Olivier said that's exactly what New Castle County did. All their land was zoned R2 which was supposed to be a holding category until they figured out what to do and it was a disaster. Mr. Nowland said that it's good to have the Plan but changes need to be made to make sure that the landowners don't lose value. He said everyone needs to work together to find something that's fair to everyone. Teddy Price agreed with Mr. Nowland's comment.

Mr. Comitta attempted to close the discussion and turn the meeting over to the Board. There was talk of recessing the hearing and reconvening on March 8th. Vice Chair Price continued to urge adoption of the Plan tonight.

Supervisor Hughes suggested placing a note in the Plan that rezoning would not take place without some number of public hearings and certified letters being sent to the residents.

Various wording changes were discussed. Mr. Comitta referenced the paragraph at the bottom of page 5-1 which states that "These areas are appropriate for effective Agricultural Zoning in which the future lot areas after subdivision should be at least 10 acres and preferably 20 acres or more in size". He suggested inserting "in which the future lot sizes after subdivision would be viable for agricultural operation." Then he suggested that if the numbers 10 and 20 are objectionable to people then all references to numbers will be removed.

Vice Chair Price moved that the Board approve a Resolution to adopt the Comprehensive Plan. Implementation will occur as quickly or slowly as we want taking into account everyone's comments and doing it as a process incorporating everyone's participation.

Jeff Bennett said he wanted the Board to say that the zoning on the green areas is not going to change under this Comprehensive Plan and an option will be added for a developer and a farm owner to do a land swap. However, if you're going to make the land swap the primary focus of approving this Plan, everyone in this room is going to object to passing such a motion.

Supervisor Juanita Bennett recommended making the changes and providing the revised written document to the residents for review before voting on it.

Vice Chair Price said she feels the changes suggested by Tom are not substantive and she again moved to adopt the Plan with the changes suggested.

John Boxler asked that it be stated clearly in the motion that the zoning would not be changed and that TDR is optional. If the motion contains that wording he said he would support Ms. Price's efforts to adopt the Plan.

Vice Chair Price said she is sympathetic to his position but doesn't feel that she has enough information to make a decision regarding the implementation and does not want to say at this time that rezoning won't occur.

Chairman Whipple stated that given the fact that in order to adopt an ordinance the Township must advertise it for a public hearing, and the fact that everyone whose land is proposed for rezoning will receive a certified letter and their property will be posted, we're not proposing any action tonight that's going to affect anyone's property, and therefore he seconded Ms. Price's motion to approve the Comprehensive Plan.

Heated discussion followed from the floor with everyone talking at once.

Mr. Comitta suggested "neutering" the document so that there's no reference to large lots and reiterated that it was never his intent to devalue anyone's land.

Chairman Whipple made a friendly amendment to Vice Chair Price's motion to say "all references to lot sizes are being removed. We are not doing zoning. All references to large lots will be tempered by saying that these areas may be appropriate for agricultural zoning. Vice Chair Price seconded the friendly amendment.

Mr. Boxler initiated a discussion regarding the definition of the term "agricultural zoning". Mr. Comitta referred to a case in Union Township, Berks County in which he testified where the definition used by the judge did not refer to a lot size, but simply stated that it is a legitimate use. The Judge referenced Article 6 of the MPC that says agriculture is a viable use.

As requested by Mr. Comitta, Supervisor Wilson read from the Township Zoning Ordinance as follows: "Uses permitted by right: 1) agriculture and buildings related to agriculture, exclusive of mushroom and substrate activities; 2) single family detached dwellings; 3) non-profit public and private park, nature center or arboretum; 4) cemeteries; 5) the clustering of single family detached residential lots on tracts 15 acres or larger is mandatory, subject to the provisions of 1510. Sites less than 15 acres may consider the provisions of 1510 as an optional design approach."

At this point the Chairman called for a vote. However, Supervisor Hughes suggested that the hearing be recessed so that Mr. Comitta could make the necessary changes and present a revised draft on March 8th.

Mr. Comitta suggested that the Board move on to the other items on the agenda giving him the time to make those revisions at this meeting.

The Chairman tabled the motion and the hearing was recessed until approximately 11:05 p.m.

Returning to the agenda, the next item under Planning and Zoning is the Planning Commission Report.

Planning and Zoning:

Planning Commission Report – February 2, 2006: Eric Brindle, Chairman of the Planning Commission, presented the report of the February 2nd meeting of the Commission. Highlights included the following:

Conservation Ordinance: The commission recommended to the Board that they approve the noticing of the Ordinance which amends Articles IV, V and XV.

Comprehensive Plan: The Commission recommended that the Board approve a Resolution adopting the 12/29/05 final draft of the Comprehensive Plan with revisions recommended by the PC.

Joe Neuman’s Plan: The PC recommended that Mr. Neuman get the Township engineer to review his plan and come back with a list of waivers that he will be requesting.

David Marshall Plan: The PC moved to recommend that the Board approve the final minor subdivision plan dated February 11, 2005 and last revised January 24, 2006 after receipt of the engineer’s final review letter and the waiver of the sewage facilities planning module requirement from DEP.

Logan Tract: There was consensus that the Commission favored one access point.

Construction Standards Handbook: Mr. Elser of Wilkinson Builders agreed to meet with Mr. Ross and Engineer Theisen to discuss various conflicts. The PC recommended that the Board adopt the Construction Standards Handbook dated January 24, 2006.

Extension Letters:

Chairman Whipple read the following requests for extensions:

Banffshire Tract (12 lot plan)	- March 22, 2006
Mackie (Avignon)	- March 22, 2006
Godfrey	- April 21, 2006
Logan	- April 21, 2006
McMaster (2 lot plan)	- April 28, 2006

Supervisor Bennett moved that all of the above extension requests be approved. Supervisor Hughes seconded the motion. The vote was unanimous and the motion carried.

Escrow Releases:

Franklin Chase - Escrow Release #7: Township Mgr. Ross indicated that the applicant has requested the release of \$69,110.07. He referred to Engineer Kohli’s letter of February 6, 2006 in which he recommends retaining 10% and releasing \$62,199.06.

Chairman Whipple moved that the Board approve Franklin Chase’s Escrow Release #7 in the amount of \$62,199.06. Supervisor Wilson seconded the motion and the motion carried unanimously.

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White Clay Knoll - Release #5: Mgr. Ross indicated that the applicant has requested the release of \$85,517.08. Engineer Kohli, in his letter of February 7, 2006, recommends retaining 10% and releasing \$76,965.37.

Chairman Whipple moved that the Board approve White Clay Knoll's Escrow Release #5 in the amount of \$76,965.37. Supervisor Wilson seconded the motion and the motion carried unanimously.

HARB - 1735 New London Road - Certificate of Appropriateness:

The Board reviewed the Certificate of Appropriateness as recommended by the HARB for the property owned by John Grimes Jr., 1735 New London Road. On motion by Supervisor Price, seconded by Supervisor Hughes, the COA was moved as presented and approved by unanimous vote of the Board.

Proposed Ordinances - Open Space and Conservation:

Chairman Whipple referred this matter to Manager Ross who advised the Board that the proposed ordinance would provide property owners, with parcels being greater than 30 acres, an option to the cluster provision of the zoning ordinance by allowing subdivision into minimum 10 acre lots. Mr. Whipple commented that said ordinance is providing the larger property owners with an optional form of parcel layout. It was further explained that said ordinance is being reviewed by the County Planning Commission and Township Planning Commission and the purpose of it being on the agenda is to authorize the Staff and Solicitor to publicly advertise the ordinance. On a motion by Supervisor Price and seconded by Supervisor Wilson, the Staff and Solicitor were authorized to publicly advertise the ordinance for consideration at the March 15 meeting of the Board of Supervisors. Motion carried by unanimous vote.

Zoning Officer/Building Inspector Report:

Mr. Whipple provided a report of the Zoning Officer/Building Inspector including the number of permits issued, which were 2 building permits and 26 inspections. No public comment.

Route 896 Corridor Study:

Supervisor Price advised there is a need for a public meeting of the various municipal planning commissioner members to discuss chapters 3 and 4. The consultant is currently looking for alternative dates for the meeting in the future.

Comprehensive Plan

The hearing was reconvened after Mr. Comitta and Mr. Robert Lonsdorf of Brandywine Conservancy finished caucusing with Jeff Bennett to suggest specific words to be removed from the Plan that was up for adoption. The suggested word deletions occurred on pages 2-7, 2-15, 5-1, 5-5, 6-10, 13-5 & 13-6. An attachment to the end of the minutes shows these suggested deletions as having a horizontal line drawn through them.

After discussion of the suggested word deletions, Vice Chair Price amended her earlier motion to approve the Comprehensive Plan by deleting only those words

with lines drawn through them that are also shaded (in the attachment to the end of the minutes). The amendment was seconded by Chairman Whipple. A vote was taken and the vote was two in favor and three against with Supervisors Bennett, Hughes and Wilson voting against.

Further discussion occurred including the following observations by Mr. Comitta. What effect is there in removing more words than Teddy had suggested that we remove? Wanted to let everyone know that section 303, called status of Comprehensive Plan and subsection (c), says 'notwithstanding any other provision of this act no action by the governing body of the municipality shall be invalid nor shall the same be subject to challenge or appeal on the basis that such action is inconsistent or fails to comply with the provision of a comprehensive plan.' "

"Lets say that the word TDR didn't appear anywhere in the Plan and some day later the supervisors said - well citizens of FT we're going to look at TDR, and the residents sayyou can't look at TDR.....is wasn't in the comp plan. I'm sorry section 303.c says we can do whatever the other sections of the act allow. Just want to say to Teddy that while - to answer Steve's question - might think that we wimped out a little bit by taking out some of the teeth that you wished were in there - it doesn't diminish your right later to use other sections of the code that you are legally allowed to use anyway. It's not great comfort but it's some comfort. "

A Motion was made by Supervisor Hughes and seconded by Supervisor Bennett to adopt the Comp Plan with the words deleted that are shown as having a horizontal line drawn thru them on the attachment to these minutes. Chairman Whipple amended the motion to specify that the Comprehensive Plan pages to have words deleted consist of pages 2-7, 2-15, 5-1, 5-5, 6-10, 13-5 & 13-6. This amendment was seconded by Supervisor Hughes.

The Chairman called for the vote which was unanimous. The motion as amended by Chairman Whipple passed.

Executive Session: The Chairman announced an Executive Session following the meeting to discuss legal issues.

The meeting was adjourned at 12:45AM

Respectfully submitted,

Stephen J. Ross
Township Mgr./Sect.