

APPROVED

**FRANKLIN TOWNSHIP
BOARD OF SUPERVISORS MEETING
APRIL 19, 2006**

Chairman Whipple called the meeting to order at 6:37 p.m. Present were Vice Chairman Teddy Price and Supervisors Juanita Bennett, Norman Hughes and Roger Wilson. Also present were Township Engineer John Theisen, Township Mgr. Stephen Ross, Township Solicitor Vince Donohue and Wendy Toman, Chair of the Historical Commission. There were approximately 10 attendees present. Ralph Olivier, PC Vice Chair and Stan Corbett of URS arrived later in the meeting.

Chairman Whipple explained the purpose of the two Public Comment sessions.

Public Comment:

John Boxler of Chisel Creek Golf Course was recognized by the Chair. Mr. Boxler asked if copies of the February 15 and March 15, 2006 BOS meeting minutes are available for the public. Chairman Whipple advised that Supervisor Bennett requested that approval of these minutes be deferred pending further discussion.

Approval of Minutes - February 15 and March 15, 2006:

Supervisor Bennett advised the Board that she has revisions to both sets of minutes and would like the opportunity to discuss them with the Board and the Township Mgr.

Chairman Whipple moved that Mgr. Steve Ross substantially edit the February 15, 2006 and March 15, 2006 draft minutes so that they reflect the format suggested in the Manual for Municipal Secretaries, copies of the relevant pages from the manual have recently been provided to the Board. This shortening will involve summarizing various contents in the existing drafts. No new content is to be added unless there was Board action taken that is not reflected in the existing drafts. Going forward Mgr. Ross will work with Eileen so that ongoing Franklin minutes reflect what is suggested in the Manual for Municipal Secretaries. Vice Chair Price seconded the motion.

Mgr. Ross explained the reasons for his recommendation regarding the minutes. He further advised that all supporting documents, reports and written statements of Board members and/or the public which are relevant to each meeting will be maintained on file at the office and will be available to the public.

Supervisor Wilson did not agree with the suggestion to further condense the minutes. He feels it is important to capture the "essence" of the public's comments even if it means increasing the length of the minutes to some degree. Supervisor Bennett agreed with his comments.

Chairman Whipple called for the vote which was 3 - 2 in favor of his motion to substantially edit the minutes. Supervisors Bennett and Wilson voted nay. The motion carried.

Ralph Olivier representing the Township's Planning Commission and Stan Corbett of URS arrived at this point in the meeting.

Reports:

Treasurer's Report - March 31, 2006: Mgr. Ross submitted the Treasurer's Report of March 31, 2006 to the Board for approval.

Chairman Whipple moved that the March 2006 Treasurer's Report be approved. Supervisor Hughes seconded the motion.

Nancy Chromey and Jeff Bennett raised questions regarding the budget. Chairman Whipple advised that the discussion called for after a motion is Board discussion, not public discussion and stated that the public's opportunity for questions and comments regarding agenda items is during the 1st Public Comment Section of the meeting.

Due to several questions and/or comments from the public regarding the change in procedure which is being implemented at this meeting without prior notice to the public, Chairman Whipple extended the Public Comment section of the meeting. This led to approximately 40 minutes of public comment and questions regarding these new procedures. Therefore, Chairman Whipple stated that for tonight's meeting, the Board will accept public comment after each agenda item. The policy going forward will be discussed at the next Workshop meeting.

He called for the vote on his motion to approve the Treasurer's Report. The vote was unanimous and the motion carried.

Manager's Report dated April 13, 2006: Mgr. Ross summarized his report dated April 13, 2006 which has been distributed to the Board.

Solicitor's Report: Solicitor Donohue reported that he and his associates are continuing to work on the three (3) matters of litigation that are pending in the Township. He announced that there will be an Executive Session after tonight's meeting to discuss two (2) of those matters.

Chairman Whipple confirmed the announcement of the Executive Session following tonight's meeting and announced that there is another Executive Session scheduled for Thursday, April 27, 2006 with Solicitor Vince Pompo.

Zoning Officer/Bldg. Inspector Report: Mgr. Ross summarized the Zoning Officer's Report dated April 12, 2006 which has been distributed to the Board. It was accepted as submitted.

Old Business:

MS4 Program - Jane Fava, Presenter: The MS4 Program is a state mandated program to eliminate illegal stream discharge from storm water systems. It has a public education component and in that regard, Ms. Jane Fava from the Brandywine Valley Association made a presentation to the Board regarding the new storm water regulations that have gone into effect and how these regulations affect Franklin Township.

There was a question from Juanita Bennett regarding stream discharge from incoming drip irrigation systems. There was also an inquiry about riparian zones. Ms. Fava encouraged the Township to implement a riparian zone ordinance and advised that the Township is responsible for monitoring illegal stream discharge from private septic systems.

Comments from the public included Mr. Ralph Olivier's question regarding the maintenance of sedimentation and erosion control fences and his statement that PennDOT is the biggest offender of these regulations. Ms. Fava advised that PennDOT write their own standards and is therefore difficult to control.

Historical Commission Update - Wendy Toman: Ms. Toman summarized the Annual Report for the Historical Commission and the HARB which has been distributed to the Board via a memo to the Board from Mgr. Ross dated April 6, 2006.

There were questions from the Board regarding the Thomas McKean Property and whether or not prospective buyers are informed in advance that the home they are considering is regulated by the historic ordinance. The Solicitor stated that such information is not considered part of the required disclosure and it is up to the purchaser to do the research in advance of purchase.

Signs Identifying the Historical District: Ms. Toman reported that the Commission will seek permission to place the signs on private property and is asking that the Board authorize the Township Mgr. to work with the Solicitor to draft a 99-year lease so that the signs will not have to be removed if the property changes ownership. The Board authorized the Township Mgr. to follow up with the Solicitor. Supervisor Bennett inquired about the legal responsibility if someone is injured by a sign. Solicitor Donahue confirmed that the homeowner is responsible.

Agricultural Security Area (ASA): Supervisor Bennett stated that after reading the ASA document, there are several issues that need to be resolved prior to recommending it to residents. Supervisor Bennett requested to meet with Vince Pompo, who is considered an expert on the ASA, prior to committing to the program. Vice Chair Price said that she supports the program and wants to go forward with it because it enables landowners to apply for agricultural grants and qualifies the Township to be eligible for grants for which they would not otherwise be eligible.

Vice Chair Price moved that the Township reactivate the ASA Committee and proceed to work with Chester County to get the ASA in complete compliance. Chairman Whipple seconded the motion.

There was discussion regarding the required composition of the committee and further discussion regarding Supervisor Bennett's issues including her concern that the public have access to professional advice. The Board stated that participation is voluntary and agreed that the Township's consultants are available to any resident interested in learning more about the ASA.

The vote on the motion to reactivate the ASA was unanimous and the motion carried.

Dirt and Gravel Road Program: Township Mgr. Ross referred to his memo dated April 12, 2006 and explained that this is an effort to apply for funds under the Chester County Conservation District Gravel Road Program. The focus road in the Township is Creek Road. Jeff Eastburn attended a two-day seminar which qualifies the Township to participate in the program. It's a two-year program at a total cost of approximately \$42,233 with \$20,168 in phase one and \$22,055 in phase two, 100% of which will be reimbursed by the County. Mr. Ross asked the Board for approval to participate in the program.

Chairman Whipple moved that the Board authorize the Township Mgr. to seek grants from the Dirt and Gravel Road Program which will be used to upgrade Creek Road. Vice Chair Price seconded the motion.

Supervisor Wilson had questions regarding the process and received confirmation that the entire expense will be reimbursed by the County.

The vote was unanimous and the motion carried.

2006 Road Program: Township Mgr. Ross referenced the bid opening several months ago in the amount of \$789,300 and the award to D. Malloy Paving. One of the conditions of the award was that Mr. Ross provide additional detail on how the budget shortfall would be made up which he has provided in his memo of March 23, 2006. The contract has been modified to cover an amount of \$709,400. Mgr. Ross requested authorization to amend the award accordingly. Supervisor Bennett moved that the Township Mgr. be authorized to amend the award to \$709,400. Chairman Whipple seconded the motion. The vote was unanimous and the motion carried.

Crossan Park Turf Maintenance: Jeff Eastburn, Assistant Township Mgr., and Park Manager summarized for the Board the work that has been done with the help of Nancy Bosold of Penn State to develop a Weed and Feed program for Crossan Park. His written report dated April 12, 2006 was distributed to the Board. RFQs were sent to six turf management companies with a

deadline of April 21, 2006. Mr. Eastburn advised that the budgeted amount for this work is \$8,000 but there is a possibility that the bids will come in higher and he requested direction from the Board in that event.

Chairman Whipple moved that the Township staff be authorized to enter into a turf maintenance contract up to \$10,000 if the bids come in between eight and ten thousand dollars. Supervisor Bennett seconded the motion.

The motion carried unanimously.

Planning and Zoning:

Planning Commission Report(PC): Mr. Ralph Olivier, Vice Chair of the Planning Commission presented the Planning Commission Report for the April 6, 2006 PC meeting.

Regarding preliminary plan approval for the Logan Tract, the PC asked for direction from the Board concerning this Plan and others which are affected by the lack of a decision regarding an overall sewer plan in the Township which is the subject of on-going discussions. Mr. Olivier stated that previously the Board instructed the PC not to recommend that the Board approve plans that have outstanding issues. Since this is the only outstanding issue with the Logan Plan, the applicant wants to move forward rather than wait for the resolution of the global sewage disposal issue in the Township over which he has no control.

Chairman Whipple advised that guidance will be provided to the PC on this issue after the Executive Session has been held.

Extension Letters: Chairman Whipple read the following requests for extensions:

Banffshire	May 24, 2006
Mackie	May 24, 2006
Miller	May 31, 2006
McMaster (2 lot)	June 30, 2006
Logan	June 30, 2006
Godfrey	July 26, 2006
Dolores Morris	August 18, 2006

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

Escrow Releases: Mgr. Ross advised the Board of the Township Engineer's recommendation in each of the requests.

Happy Harry's Release #4: Chairman Whipple moved that Escrow Release #4 for Happy Harry's be approved in the amount of \$29,000. Supervisor Bennett seconded the motion. The vote was unanimous and the motion carried.

White Clay Knoll, Release #7: Chairman Whipple moved that Escrow Release #7 for White Clay Knoll be approved in the amount of \$58,793.34. Supervisor Bennett seconded the motion. The vote was unanimous and the motion carried.

High Point Meadow Release #1: Chairman Whipple moved that Escrow Release #1 for High Point Meadow be approved in the amount of \$89,263.91. Supervisor Bennett seconded the motion. The vote was unanimous and the motion carried.

Plans:

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Woods Edge – Preliminary, 5/17/06: Township Mgr. Ross referenced his memo to the Board dated April 12, 2006 regarding the Woods Edge Development and also an e-mail which went out today, April 19, 2006 regarding three review letters from three consultants. Mgr. Ross recommended Conditional Preliminary Plan Approval and read the conditions.

Chairman Whipple moved that the Woods Edge Preliminary Plan be approved subject to the conditions as noted in the April 19, 2006 memo, as amended per discussion. Vice Chair Price seconded the motion. The motion passed unanimously.

New Business:

Codification Services: Mgr. Ross referenced his memo to the Board dated April 6, 2006 as well as a previous critique of the two vendors who are interested in providing codification services. Keystate Publishing submitted a proposal of \$5,968 and General Code's proposal was \$12,995. Mr. Ross recommends that the Board approve Keystate Publishing to proceed with the codification of the Township's ordinances at a cost of \$5,968 and that it be updated annually.

Chairman Whipple moved that the Township contract with Keystate Publishing to perform the codification of the Township's ordinances at a proposed cost of \$5,968. Supervisor Bennett seconded the motion. The vote was unanimous and the motion carried.

Property Values: Supervisor Bennett asked for the Board's thoughts regarding her request that it be stated in the Comprehensive Plan that rezoning would not be done if the property would be devalued as a result. Vice Chair Price opposed the suggestion. Solicitor Donohue recommended against including such a statement in the Comp Plan.

Supervisor Bennett moved to include in the Comp Plan that the Franklin Township Board of Supervisors has no intent to devalue land as a result of rezoning to large acre parcels. Supervisor Wilson seconded the motion.

Comments were made by the Solicitor and members of the Board which recognized the intent of Ms. Bennett's motion, but cited problems with implementing and enforcing it. In addition, Solicitor Donohue feels it could create the opportunity for litigation.

Public comments on the issue were received from Mr. Patone, Mr. Brown, Ms. Chromey, and Mr. Bennett. Some felt that the Board could be more supportive of Ms. Bennett's efforts to draft a statement which would protect against devaluation of their land. Mr. Jay Brown made a proposal to sell his farm to the Township and said he would hold the mortgage. The procedure that is required to pass an ordinance was reviewed and discussed. Questions regarding the most effective tools available to the Township to preserve open space were asked by members of the public and it was explained by Chairman Whipple and Vice Chair Price that rezoning is the least effective tool. Vice Chair Price said that all reference to rezoning has been removed from the Comp Plan. Supervisor Bennett asked that if rezoning is considered that the Township would revisit two-acre zoning.

The vote was 2 – 3 on Ms. Bennett's motion with Teddy Price, Dick Whipple and Norman Hughes opposed. The motion failed.

Route 896 Corridor Study:

Chairman Whipple advised that the public hearing was held on March 29, 2006. Ralph Olivier and Eric Brindle represented Franklin Township and submitted comments on behalf of the Township which were taken into consideration. The next meeting of the Task Force is May 8th when the Plan

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will be finalized. It will then come back to the Board to be considered for adoption by the Township.

Public Comment:

Mr. Whipple explained that Mr. Lang was inadvertently omitted from tonight's agenda and is therefore recognized as the first speaker in public comment. Mr. Lang stated that the PC recommended conditional preliminary plan approval of his plan dated January 2004. He is seeking clarification from the Board regarding the condition requiring the installation of sidewalks along Parsons Rd. Mr. Olivier advised that his main reason for recommending sidewalks is to provide a safe way for children to travel between houses and communities. It is the sense of the Board that a sidewalk along Parsons Rd. is not required.

There was a question from John Boxler regarding whether the PC is going to change their meeting procedures similar to the BOS's new procedure and Mr. Olivier stated that there were no plans to do so. Mr. Boxler asked if the reports that are distributed to the Board prior to Board meetings and discussed at meetings can be made available to the public so that they can be better prepared to ask questions during the 1st public comment. Mgr. Ross will follow up. Christine Makowski thanked Norm, Juanita and Roger for their persistent support for public comment and providing opportunities to the public to express their opinions and to Roger for his honesty and straightforward approach to issues. Ralph Olivier suggested that Juanita read the string of recent articles in the Wilmington News Journal regarding the disaster that New Castle County has become because of two-acre zoning and failing septic systems.

There was a brief discussion regarding a vote taken at a previous meeting which involved an incorrect parcel number and influenced Supervisor Bennett's vote.

Adjourn: The Chairman adjourned the meeting at 11:30 p.m.

Respectfully submitted,

Stephen J. Ross
Township Mgr./Sect.