

FRANKLIN TOWNSHIP
BOARD OF SUPERVISORS MINUTES
MARCH 21, 2007

Call to Order:

Chairperson Juanita Bennett called the meeting to order at 7:01 p.m. Present were Supervisors Roger Wilson and Richard Whipple. Teddy Price and Norman Hughes were absent. Also present were Solicitor Mark Thompson, Planning Commission Chairman Eric Brindle, PC member Ralph Olivier, Walt Leis, Township Water Consultant, Assistant Township Manager Jeff Eastburn, and Interim Township Manager Stephen Ross. There were approximately 11 members of the public in attendance.

Public Comment: No public comment.

Approval of Minutes:

The minutes of February 21, 2007 were approved on motion by Mr. Whipple, seconded by Mr. Wilson. Mrs. Bennett moved to amend the minutes, page 1, "Treasurer's Report" 5th line, by inserting the word "he" between "that" and "did". Mr. Wilson seconded the amendment. Motion carried by a vote of 3-0.

Reports:

- a. Treasurer's Report February 28, 2007: Mr. Ross provided a summary of the fund balances including a month end balance of \$1,459,776.31. Mr. Ross provided an e-mail response to the Board's question regarding how the month of January 2007 compared to the same period in 2006. The answer provided indicated that expenses and revenues are similar for both periods. Mr. Wilson moved, seconded by Mrs. Bennett, to approve the monthly Treasurer's report as presented. Motion carried by unanimous vote of 3-0.
- b. Manager's Monthly Report: Mr. Ross summarized the monthly report of activities by advising the following: Barbacane Thornton completed the audit of the 2006 financial records and there were no reportable findings, however the report did indicate that there may be a need to develop a code of conduct, a conflict of interest policy and a policies & procedures manual; the Manager attended the CCATO meeting held on March 15, 2007; the first newsletter for 2007 was sent at the end of February; the Township received notice from PSATS of receiving the top award for the most improved newsletter in the state; the Manager attended the Avon Grove Regional Emergency Management Community Task Force meeting; a listing of developments handled by Staff for the month was provided; and receipt of a letter from Chester County Planning Commission asking that Franklin Township consider needed road improvements and that project names be submitted by the end of April. Mr. Ross requested input from the Board regarding road improvements. Mrs. Bennett inquired about the procedure for collecting monies owed to the Township by developers as listed in #3 of the manager's report. Mr. Wilson asked if the code of conduct and policies manual etc. would be added to the Visions List for 2007. He expressed his support of drafting these documents.

- c. Solicitor's Report: Mr. Thompson had nothing to report. Mrs. Bennett questioned the practice of the Solicitor providing advice to members of the Board but not providing follow-up communication to all Board members. Mrs. Bennett requested that the e-mail from Solicitor Vince Donohue dated March 19, 2007 be part of the record. Mrs. Bennett requested that a policy be developed for communicating between all Township consultants and the Board. Mrs. Bennett moved, seconded by Mr. Wilson, to direct the Manager and Solicitor to establish a policy by which any communications between the BOS and their consultants will be followed by written transmittals with questions posed and answers provided. Motion failed by a vote of 2-1 with Mr. Whipple voting against the motion.
- d. Zoning Officer and Building Inspector Report: Mr. Ross highlighted the report by noting that 18 permits were processed and issued including 3 new homes; 17 inspections; 5 zoning tasks; 4 HARB tasks; and 3 zoning site visits.

Old Business:

- a. Sunoco A Plus Service Station: Mr. Wilson led the discussion beginning with a recap of the discussion at the March 14th meeting. He mentioned that a statement was presented at that meeting which included a brief history of the oil spill at the Sunoco Service Station. Mr. Wilson expressed disappointment that certain members of the Board and Township Staff were aware of, and participated in, a meeting which occurred around noon on March 14th, when individuals from PADEP, Sunoco and Mulry & Cresswell (contractor) dropped in unannounced at the Township office. The Township's consultant, Walt Leis, was made aware of their presence by Township Staff. Mr. Wilson stated that in his opinion it was inappropriate and unprofessional that this impromptu meeting was not disclosed at the public meeting that evening. Mrs. Bennett said that she too was disappointed that she was not made aware of the meeting until receiving an e-mail addressed to the Board from Mr. Ross on Sunday March 18th.

Mr. Whipple provided a written statement dated March 21, 2007 concerning the DEP-Sunoco situation at the A-Plus in Kemblesville. Mr. Whipple's statement is part of the record. Mr. Whipple further stated that this situation is under the purview of the PADEP and explained the protocol, as he understands it, of how and when information becomes public information and the potential liability to the Township if non-public information is disclosed in a public forum.

Walt Leis was requested to comment on the situation. He agreed with the statement submitted by Mr. Whipple. He further explained that his role as a Township consultant is to monitor the activities of Sunoco and their consultant and to advise his client (Franklin Township) of the adequacy of such information. He advised that he provided a summary of the noontime discussion with PADEP, et al, to the Township Mgr. on March 16th.

Mr. William Fischer, a resident of Franklin Township and an environmental engineer with the regulatory agency for the State of Delaware, was present and was invited to comment by Mr. Wilson. Mr. Fischer confirmed that the law requires DEP to have jurisdiction and the Township has a limited role in this process. He further advised that he would make himself available as a volunteer if requested by the Township.

Questions from the public and additional Board comments included the following:

- a. Wendy Toman asked if testing is being done for MTBA.
- b. Eric Brindle cautioned discussing the potential effects of the spill on real estate values.
- c. Jeff Bennett questioned the decision to have a supervisor attend the meeting without benefit of counsel and questioned Walt Leis's role. He also asked what the life of MTBE is.
- d. Solicitor Thompson advised that there are no restrictions regarding an individual supervisor attending a meeting without counsel present.
- e. Mr. Wilson stated that perhaps Township personnel should have told DEP and Sunoco that a meeting would be scheduled at a future date.
- f. Ralph Olivier questioned the reasonableness of asking a state regulatory agency to change their schedule to suit the Township.
- g. Mrs. Bennett asked how often one should retest if they had a positive test for MTBE.

Mr. Wilson read a statement quoting from an e-mail from Mark Thompson dated March 20 which stated "Since the Township has no official regulatory role to play in the clean-up of the Sunoco property (as we have been consistently advising the Board), the issue of the property does not concern official 'agency business' of the Township. The Board cannot deliberate or for that matter take official action on the property's clean-up, as these actions are the sole purview of DEP."

- b. Restriction on Crossan Park: Mr. Phil Geoghegan was available to discuss the need for a deed restriction on the Crossan Park property in conjunction with a grant application from the County. Mr. Whipple moved, seconded by Mr. Wilson, to authorize the Solicitor to see if a preservation easement currently exists on the Park and if not, to commence the process of perpetually easing Crossan Park, in conjunction with filing a grant application on an adjacent parcel and for the Staff to file the required grant applications with Chester County. Motion carried by a 3-0 vote.

Planning and Zoning:

- a. Planning Commission Report – March 1, 2007: Mr. Eric Brindle provided a report of the activities of the Planning Commission at their meeting of March 1, 2007. The Goodwin Sketch Plan was reviewed at the meeting.
- b. Extension Letters:

The following planning extensions were reviewed by the Board:

APPROVED

- Miller Farm, Preliminary Plan: June 12, 2007
- Cornerstone Presbyterian Church, Land Development Plan: June 21, 2007.
- Arbor Hills (Christens), Preliminary Plan: June 30, 2007
- Logan Property, Preliminary Plan: June 30, 2007

Mr. Whipple moved, seconded by Mr. Wilson, to approve the extensions as noted above. Motion carried by a vote of 3-0.

New Business:

- a. Act 209 Proposal: Mr. Ross explained that he is looking for people to serve on the Act 209 Advisory Committee. Thus far there are 4 names and another 3 residents of the Township are needed. Mr. Ross advised Mr. Al Federico of McCormick Taylor that the subject would be deferred until other names are forthcoming.

- b. Lewis F. Riess Waiver Of Penalty: Mr. Reiss sent a letter to Chester County Tax Claim Bureau dated March 10, 2007 requesting waiver of penalty and interest charges of \$139.82 for the non-payment of 2006 real estate taxes. Mr. Reiss changed his address at the end of 2005 and never received the base bill of \$1,398.20 at his new Franklin address. On motion by Mr. Wilson, seconded by Mrs. Bennett, the Board approved waiving the \$139.82 penalty. Motion carried by a vote of 3-0.

- c. HARB/Historical Commission:
 - Mrs. Dolores Hughes volunteered to serve on the Historical Commission. On motion by Mr. Whipple, seconded by Mrs. Bennett, the Board appointed Mrs. Hughes to serve a five year term on the Historical Commission with the term to expire December 31, 2011. Motion carried by a vote of 3-0.

 - HARB Guidelines Volume 2 was presented for adoption by the Franklin Township HARB. The Guidelines were presented by Mrs. Toman. On motion by Mr. Whipple, seconded Mr. Wilson, the HARB Guidelines for New Construction, Additions and Demolition, Volume 2 were approved subject to having the Solicitor review and comment on the guidelines. Motion carried by a vote of 3-0.

Public Comment: No public comment.

Adjourn: The meeting was adjourned at 9:16 p.m.

Respectfully submitted,


Stephen J. Ross
Township Manager/Secretary

3.21.07 v. 2. ER