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## FRANKLIN TOWNSHIP BOARD OF SUPERVISORS MINUTES AUGUST 20, 2008

### **Call to Order:**

Chairman Richard Whipple called the meeting to order at 7:03 p.m. Present were Supervisors Norman Hughes, Nan Latimer, Paul Overton and Eric Brindle. Also present were Ralph Olivier, Planning Commission Chairman, Phil Geoghegan, Open Space Committee Chairman, Scott Allen, McCormick Taylor, Stan Corbett, URS Corporation, John Theisen, LTL Consultants, Solicitor Mark Thompson, Jeff Eastburn, Assistant to the Township Manager and Stephen J. Ross, Interim Township Manager. There were 40 members of the public in attendance.

### **Public Comment:**

There was no public comment on agenda items. In order to accommodate the many people who were there because the Avon Grove Charter School was on the agenda, Mr. Whipple announced that a separate public comment would be allowed prior to that discussion.

### **Approval of Minutes:**

On motion by Mr. Whipple, seconded by Mr. Hughes, the Minutes of July 9, 2008 were approved as submitted. Motion carried by a vote of 5-0.

On motion by Mr. Whipple, seconded by Mr. Brindle, the Minutes of July 16, 2008 were approved as submitted. Motion carried by a vote of 5-0.

### **Plaque Presentation:**

To mark the 25<sup>th</sup> anniversary of paramedic service to the greater community, the Southern Chester County Emergency Management Services (SCCEMS), represented by Mr. Robert Hotchkiss, presented a plaque to Franklin Township in appreciation of the Township's continued support.

### **Reports:**

- A. *Treasurer's Report:* The monthly report contains financial information including monthly disbursements and revenues, budget information, and fund balances. On motion by Mr. Whipple, seconded by Mr. Hughes, the July 2008 Treasurer's Report was approved. Motion carried by a vote of 5-0.
- B. *Manager's Report:* Mr. Ross provided a brief synopsis of the monthly report including the 2009 Budget Preparation, Zoning Ordinance status, development work by Staff, Crossan Park maintenance and work on various road projects by Jeff Eastburn.
- C. *Solicitor's Report:* Mr. Thompson advised that his monthly report was furnished to the Board and he had nothing further to add.
- D. *Zoning Officer/Building Inspector Report:* Mr. Ross provided a summary of the activities including the issuance of 13 permits, 104 inspections, 14 zoning tasks and 3 zoning site visits.

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## **Planning and Zoning:**

- A. Planning Commission Report: Mr. Olivier provided the monthly report of activities of the Township Planning Commission and summarized the items covered at the August 7, 2008 PC meeting.
- B. Historical Commission/HARB: Mr. Olivier presented a brief report regarding the activities of both groups.
- C. Brothers Property:
- Preliminary Plan Approval: The Board received a copy of the checklist outlining the consultant reviews and a recommendation from Staff. The Planning Commission provided a recommendation for conditional approval at their August 7 meeting. Mr. Ken Crossan, representing the applicant, provided a brief status report and advised that the final plan would include all of the comments from the consultants and Planning Commission. On motion by Mr. Whipple, seconded by Mr. Brindle, the Board accepted the recommendation of the Planning Commission including waivers and conditions, and approved the Brothers Preliminary Subdivision Plan dated June 19, 2008, subject to the following:
    1. Because of the rural nature of this location, the Township does not require sidewalks, lights and school bus stops as per ZO, Sections 1505 and 1506.
    2. In accordance with SALDO, Section 2403.C.1, the applicant must include on the final plan and in the deed for Lot 3, deed restrictions for the protection of wetlands and woodlands.
    3. The notarized signature of the owner is on the plan at the time the Board of Supervisors and Planning Commission sign the preliminary plan.
    4. A waiver of SALDO, Section 604.I, permitting two flag lots, thereby eliminating the need for a public road.
    5. At the time of final plan submission, the applicant should indicate house numbers as assigned by the Township.
    6. The waiver of Ordinance 2005-03, Section 401.A.2, pertaining to the peak rate reduction standards for site development for 10-year to 2-year rate reduction requirements.
    7. The applicant include in the final plan various items (Ordinance 2005-03, Section 405) such as inlet flow channels, inlet material requirements, inlet adjustment rings and inlet steps. The inlet detail added to the plans should be modified to show the inlet flow channel extending up the side of the inlet for a minimum distance of 12 inches from the pipe invert.
    8. The applicant include in the final plan that inlet tops be depressed twelve inches in landscaped areas in accordance with Ordinance 2005-03, Section 405.N. Inlet #5 does not meet the requirements of this section and should be modified to comply with the ordinance.
    9. The use of a rain garden to be installed in lieu of an infiltration facility and the applicant must provide details of the facility when filing the final plan.
    10. The applicant shall provide sufficient detail to the Township at the time of final plan submission regarding proposed grades, maintenance and prevention of runoff from entering S. Guernsey Road. In addition, the applicant shall add a cross-section detail on the plans.

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11. At the time of final plan submission the applicant shall submit the deeds of the affected parcels to include detail of the location, use restrictions and maintenance responsibilities related to the driveway easement. The deeds must be reviewed by the Township Solicitor.
12. The applicant shall pay a Traffic Impact Fee of \$7,782.35 per building lot at the time building permits are obtained. At the time of filing a final plan, a note will be placed on the plan to this effect.
13. The applicant, owner, sub-divider, or developer shall pay to the Township, prior to the recording of the final plan, a fee-in lieu of recreation land dedication of \$1,800.00 per building lot for a total of \$3,600.00. At the time of filing a final plan, a note will be placed on the plan.

Mr. Hughes brought to the attention of the applicant and Board a typo in Note 15.

Mr. Crossan will have it corrected on the final plan.

Mr. Overton questioned how many new homes are expected to be built after the property is subdivided.

Motion carried by a vote of 5-0.

- Land Planning Module: The Planning Module for the Brothers Properties was submitted on November 13, 2007 and revised on August 19, 2008. Upon review by John Theisen regarding the rain garden footprint it was approved and forwarded to Stan Corbett for his final check. Mr. Corbett advised that the planning module is acceptable for Board action. On motion by Mr. Whipple, seconded by Mr. Hughes, the Board approved the Brothers Land Planning Module and authorized the Township Secretary to complete section K on the form and submit it to DEP. Motion carried by a vote of 5-0.

- D. Insinga – Appleton Road Sidewalk: The developer, Wilkinson Builders, represented by Bill Romanelli, presented an exhibit (picture) and memo requesting further consideration regarding the installation of a sidewalk in front of the Wilkinson Property on Appleton Road. As a condition of approval on the preliminary plan the applicant is responsible for constructing the 100' +/- sidewalk. There is a silver maple tree in the path of the sidewalk and the roots could possibly be harmed when the sidewalk is constructed. This matter was discussed at the August 7, 2008 Planning Commission Meeting and the Commission recommended that Wilkinson pay the Township an amount equal to the cost of the installed sidewalk which amount would be deposited in the Open Space Fund. The construction estimate for the sidewalk is \$1,845 furnished by Wilkinson Builders from Petro Concrete Inc. On motion by Mr. Whipple, seconded by Ms. Latimer, the Board accepted the Planning Commission's recommendation and requested the developer to tender a check in the amount of \$1,845 in lieu of constructing the sidewalk on Appleton Road and the amount be deposited in the Open Space Fund. Mr. Brindle suggested that the money be used in conjunction with the trail system for projects completed by volunteers and be limited to approximately \$275/project. Motion carried by a vote of 5-0.

- E. Wood's Edge Financial Security Extension: Mr. Bob Smiley was present on behalf of the applicant, GenTerra. Mr. Ross advised that this item appeared on the July 16<sup>th</sup> agenda and the Board of Supervisors extended the time for consideration until August 20, 2008. In a letter from the developer, Mr. Panizza, there was a

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request for an indefinite extension. The Township Solicitor advised against providing an indefinite extension and recommended a more reasonable extension of six months. Subsequently, the developer, in a letter dated July 31, 2008 requested an extension to October 20, 2008. Currently there are two extension requests received from the developer, one being an indefinite extension and the other to October 20, 2008. After participating in a discussion with the Board, Mr. Smiley, on behalf of the applicant, added to the choices before the Board, a request for a six month extension. On motion by Mr. Whipple, seconded by Mr. Hughes, the Board approved the Financial Security extension for GenTerra for a period of six months beginning August 25, 2008 which is the expiration date of the current extension. Motion carried by a vote of 5-0.

## **Old Business:**

- A. Authorization to Advertise Act 209 Ordinance: The Act 209 Committee met on August 18, 2008 to consider the proposed Transportation Capital Improvements Plan and make a recommendation to the Board of Supervisors. The Committee recommended that the Board accept the Transportation Capital Improvements Plan and consider for adoption an ordinance that would formally adopt the plan. On motion by Mr. Whipple, seconded by Mr. Overton, the Solicitor is requested to prepare an ordinance and the staff is authorized to publicly advertise it for consideration at the September 17, 2008 BOS meeting. Motion carried by a vote of 5-0.
- B. SALDO and Zoning Ordinance: The Board received a recommendation from the Township Planning Commission to consider a public hearing and adopt the proposed amendments to the SALDO and Zoning Ordinance. Ms. Jennifer Leister from Tom Comitta's office, was present and provided further background information on the process and the need to have the recommendation from the Chester County Planning Commission before advertising the ordinance. On motion by Mr. Whipple, seconded by Mr. Brindle, the Board authorized the Solicitor and Staff to advertise the ordinance and schedule a Board of Supervisors public hearing, upon receipt of the County Planning Commission comments. Motion carried by a vote of 5-0.
- C. Act 537 Plan Amendment – Resolution 2008-15: Mr. Corbett advised that URS completed the study of the existing on-lot sewage system conditions for properties located generally in the Village of Kemblesville. The study provides an analysis of the existing systems and indicates that observable malfunctions appear to be adequately mitigated through regular treatment tank pumping. The Solicitor reviewed the resolution and finds it to be acceptable. On motion by Mr. Whipple, seconded by Mr. Overton, Resolution 2008-15 was approved. This Resolution adopts the Franklin Township Official Sewage Facilities Plan Special Study, Kemblesville Study Area, Sewage Needs Analysis, dated June 5, 2008 and last revised August 12, 2008 in accordance with the provisions of the Pennsylvania Sewage Facilities Act. The approval authorizes URS to forward the amended Act 537 Plan with Resolution to DEP. Motion carried by a vote of 5-0.
- D. Avon Grove Charter School: After explaining the purpose of tonight's discussion, Mr. Whipple opened the public comment period for the former Kemblesville Elementary School that has recently been refurbished and is scheduled to open

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as the Avon Grove Charter School (AGCS) on September 2, 2008. The following people commented on the Charter School:

- Mr. Kevin Brady, CEO of the Charter School thanked the BOS for the warm welcome given to the members of the school community and for assisting the school in achieving their goal of opening on September 2, 2008. He expressed sincere gratitude for the spirit of cooperation exhibited by everyone associated with the Township. Mr. Brady advised that Mr. Jack Wuerstle, attorney for AGCS, would be acting as the spokesman for the school.
- Mr. Robert O'Dell commented on the exceptional quality of the school.

Solicitor Thompson provided a summary of the reasons that the requirement for a land development plan was waived and Resolutions 2007-20 and 2008-16 became the governing documents regarding the school's operation and the improvements necessary for the issuance of the first Use & Occupancy Permit (U & O) so the school could open on September 2, 2008, as well as certain other improvements which are scheduled to be completed within the next 2-3 years, including the realignment of Peacedale Rd. The following documents have been reviewed and approved by the Solicitor and Mr. Wuerstle and are now subject to approval by the Township's Board of Supervisors:

1. Financial Security Agreement: AGCS has provided financial security in the amount of \$550,000 which amount is equal to 110% percent of the cost of completion of the Road Improvements. The Financial Security is in the form of an Irrevocable Letter of Credit issued by PNC Bank. The amount of \$550,000 has been reviewed by LTL Consultants and McCormick Taylor and found to be acceptable.
2. Sewage Operation and Maintenance Agreement: This is an agreement between AGCS and Franklin Township that establishes the parameters for maintaining the on-lot sewage system. In addition to the Solicitor, URS has reviewed and recommended execution by the Township.
3. Traffic Signal Operating and Maintenance Agreement: This document recognizes the responsibilities of the AGCS to maintain and operate the flashing warning devices located on Rt. 896 in both the northern and southern directions. The agreement has been reviewed by the Township's Traffic Consultant, McCormick Taylor and found acceptable.

On motion by Mr. Whipple, seconded by Mr. Hughes, the Board of Supervisors of Franklin Township approved the Financial Security Agreement, Sewage Operation and Maintenance Agreement and the Traffic Signal Operating and Maintenance Agreement and authorized the designated officials to execute the agreements subject to receipt and approval of those documents by the Solicitor. Motion passed unanimously.

There was a discussion regarding the use of a traffic control person. For the public record Mr. Thompson advised that after researching this issue, it is clear that the Township is the only authority that can authorize individuals to direct traffic on Township roads. To transfer that authority there would need to be certain agreements between the Township and the AGCS as required by PA state law. These individuals would also require specialized training. Mr. Thompson stated that the AGCS has represented that the only direction of traffic that is contemplated will be on the school's private property and not on public roads.

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4. Resolution 2008-16 – Accepting Dedication Of The Relocated Peacedale Road: Penn Dot provided a Highway Occupancy Permit for the relocation of Peacedale Road that accesses Rt. 896 in front of the school. The Township Traffic Consultant, McCormick Taylor, has reviewed and approved the plans. On motion by Mr. Whipple, seconded by Mr. Brindle, the Board approved Resolution 2008-16 accepting dedication of the right-of-way of the relocated Peacedale Road, which is conditioned upon receipt of a signed deed and legal description from the school. Motion carried by a vote of 5-0.

Mr. Whipple requested the Staff and Consultants to advise of any issues not completed as stated in Resolution 2007-20 with the exception of what is outlined by the Code Official in the temporary use and occupancy permit:

- Mr. Ross advised that with approval of the multiple agreements as stated above the only remaining issue is the proposed traffic patterns as shown in a plan presented by the Charter School. Mr. Whipple stated for the record that the Township is not aware of and does not endorse any alternate paths of travel.
- Mr. Allen provided a short listing of his concerns. The most significant issue is the handling of the 12 buses and the 54 vehicular trips to the rear parking lot. Mr. Allen is concerned that the school hasn't provided sufficient data to properly analyze this especially as it relates to the vehicles using alternative roads within the Township. Regarding the stacking of cars on Peacedale Rd., Mr. Allen advised that the Township has an ordinance against parking on any public street or within any public right-of-way.
- Mr. Theisen, in conjunction with Mr. Allen has reviewed the site and reports the following minor items that need to be completed: Traffic signs and traffic markings; minor paving repairs; (4) missing wheel stops in the parking lot; painted stripes marking parking spaces; and a speed bump in the driveway.
- Mr. Whipple summarized the final inspections that must be accomplished including mechanical, plumbing, electrical, accessibility and inspections by the Chester County Health Department.
- Mr. Whipple stated for the record that for the public health, safety and welfare of its residents, state and Township roadways need to remain open and unobstructed and that the AGCS has committed to taking whatever steps are necessary to insure that that is the case.
- Mr. Brady explained the open house planned for August 27 and the fact that groups of parents (approximately 600 expected) will be staggered during the entire day and an effort will be made to move them in and out efficiently. Extra parking is available across the street in Happy Harry's parking lot and the state police will be on hand to facilitate crossing 896.
- There was a discussion between the Board and the school attorney regarding the security for improvements contemplated in 2012. Mr. Thompson said he would revise the Financial Security Agreement to cover both the road improvements and the stormwater management improvements contemplated to be constructed by the School under Resolution 2007-20.
- Mr. Steger, Board Member of the AGCS thanked the Board for their cooperation.

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Mr. Wuerstle summarized what had to be done to open the school and acknowledged that it was the AGCS's responsibility to do whatever was needed, at AGCS's expense to prevent the stacking of vehicles and keeping both state and Township roads open, in part for emergency responders. He further assured the Board that the school would monitor the traffic now and in the future to insure public health, safety and welfare.

## **New Business:**

- A. Acceptance of the Agricultural Security Area (ASA) Application: On motion by Mr. Whipple, seconded by Mr. Hughes, an application was accepted from Shirley Harless Keen for consideration of the inclusion of the following properties into the Franklin Township ASA Program:
- Tax Parcel # 72-2-49 being 5.5 acres
  - Tax Parcel #72-2-61 being 78 acres
  - Tax Parcel 72-2-63 being 18.4 acres
- Motion carried unanimously.
- B. UCC Appeal Board Nominations: Mr. Eastburn provided a memo to the Board advising that two new members should be considered for appointment to the UCC Appeal Board. The two new members that have agreed to serve include Mr. Denis O'Flynn O'Brien and Mr. Gary Moore. Mr. Whipple moved, seconded by Mr. Hughes, that the Board approves appointment of Mr. Denis F. O'Flynn O'Brien to a term that will expire on December 31, 2008 with consideration for reappointment to a five year term at the Reorganization Meeting of the Board in January, 2009 and Mr. Gary Moore to a term that will expire on December 31, 2012. Motion carried by a vote of 5-0.
- C. Sale of Municipal Diesel Fuel: Mr. Eastburn provided a memo outlining his recommendation to the Board that the Township consider selling the remaining diesel fuel located in a tank at the Township Building. The fuel was used to operate the old army generator that was taken out of service in 2007. Mr. D'Orazio of Yardworks has agreed to purchase the fuel oil in increments of 50 gallons at a time at an agreed price of \$3.49 a gallon. On motion by Mr. Whipple, seconded by Mr. Overton, the Board approved the sale of the diesel fuel to Mr. D'Orazio at an agreed price of \$3.49 per gallon and the Staff is permitted to remove the tank by publicly selling it to the highest bidder in conjunction with selling the generator. Motion carried by a vote of 5-0.
- D. Open Space Acquisition Commitments: The following discussion and action occurred regarding the following parcels of open space:
- Walker Road: On motion by Mr. Whipple, seconded by Mr. Brindle, the Franklin Township Board of Supervisors authorized the commitment of up to \$600,000 of Open Space Funds in support of Natural Lands Trust's efforts, with the financial support of PA. DCNR and Chester County to acquire 113 acres of environmentally sensitive property, located to the north of Walker Road, and the west of Franklin Road. Motion carried by a vote of 5-0.

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- Property west of Rt. 841: Mr. Whipple moved, seconded by Mr. Brindle, that a 4/09/08 motion be updated to authorize the expenditure of Open Space Funds in an amount not to exceed \$35,000, for the Open Space acquisition of approximately 17 acres at the intersection of Rt. 841 & Church Hill Road. Motion carried by a vote of 5-0.
- Property south of Church Hill Rd.: Mr. Whipple moved, seconded by Mr. Brindle, that a 2/13/08 motion be updated to authorize the expenditure of Open Space Funds in an amount not to exceed \$22,000 for the acquisition of several conservation oriented easements on approximately 40 acres on the southern side of Church Hill Road. Motion carried by a vote of 5-0.
- Property on Chesterville Rd.: Mr. Whipple moved, seconded by Mr. Brindle, that the Franklin Township Board of Supervisors authorize the expenditure of Open Space Funds in an amount not to exceed \$6,400, for a second appraisal and a Phase 1 environmental study related to the Open Space acquisition of approximately 82 acres on the eastern side of Rt. 841. Motion carried by a vote of 5-0.
- Property north of Parsons Rd.: Mr. Whipple moved, seconded by Ms. Latimer, that the Franklin Township Board of Supervisors authorize the expenditure of Open Space Funds in an amount not to exceed \$1,200 for the Brandywine Conservancy to prepare a Chester County Grant Application concerning the potential acquisition of approximately 93 acres of Open Space on the northern side of Parsons Rd. Motion carried by a vote of 5-0.

### **Public Comment:**

- Mr. Olivier requested whether an organizational meeting of the UCC Appeal Board is in order. Mr. Thompson advised that it wasn't necessary to have such a meeting but if he would like there is no harm meeting the other members of the Committee.
- Mr. Hatton complimented the Board and Staff for handling the many complex issues on tonight's agenda.

Mr. Whipple announced an Executive Session following the public meeting for the purpose of discussing the possible acquisition of real estate.

### **Adjourn:**

The meeting was adjourned at 9:23 p.m. to convene into executive session, on motion by Mr. Whipple, seconded by Mr. Hughes. Motion carried by a vote of 5-0.

Respectfully submitted,

Stephen J. Ross  
Interim Township Mgr.

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