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## FRANKLIN TOWNSHIP BOARD OF SUPERVISORS MINUTES APRIL 15, 2009

### **Call to Order:**

Chairman Richard Whipple called the meeting to order at 7:03 p.m. Present were Supervisors Nan Latimer, Norman Hughes, and Eric Brindle. Paul Overton arrived at 7:07 pm. Also present were Solicitor Mark Thompson; Assistant Township Manager, Jeff Eastburn; Township Secretary, Sharon Norris; Engineering Consultant, John Theisen; Planning Commission Chairman, Ralph Olivier; and Open Space Chairman, Phil Geoghegan. There were 4 members of the public in attendance.

**Executive Session:** Chairman Whipple announced that there will be an Executive Session following tonight's meeting to discuss ongoing litigation.

**Public Comment:** No public comment.

### **Approval of Minutes:**

*BOS Minutes – 3/4/09:* Mr. Whipple moved, seconded by Ms. Latimer, to approve the minutes of March 4, 2009 as presented. Motion carried unanimously.

*BOS Minutes – 3/18/09:* Mr. Whipple moved, seconded by Ms. Latimer, to approve the minutes of March 18, 2009. Motion carried unanimously.

### **Reports:**

*Treasurer's Report:* Mr. Whipple moved, seconded by Ms. Latimer, to approve the March 2009 Treasurer's Report, as presented by the Township Treasurer, including disbursements and transfers from the General Fund totaling \$135,579.23, the Park & Rec Fund totaling \$46,575.13, the Open Space Fund totaling \$13,195.83, the Emergency Services Fund totaling \$17,509.31 and the Fire Hydrant Fund totaling \$326.70, with total balances in all funds, at 03/31/09, equaling \$5,374,739.89. Motion carried unanimously.

*Solicitor's Report:* Solicitor Thompson advised that in the matter of Paradox Vineyard's appeal before the Zoning Hearing Board, Paradox has given another extension to the end of April to see if the matter can be resolved without litigation.

*Zoning Officer/Bldg. Inspector Report:* Mr. Eastburn provided a summary of the Zoning Officer's report which includes the issuance of 3 building permits, total building fees of \$1,018.85 and 12 building inspections.

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## **Planning and Zoning:**

- A. Planning Commission Report: Mr. Olivier provided a summary of activities at the April 2, 2009 Planning Commission Meeting which included a review of the Charlton and Baughman Plans, and the letter to DCNR regarding an application for funding a trail along the Middle Branch of White Clay Creek. Regarding the Baughman Plan, Mr. Olivier read the PC's recommendation to the Board for conditional approval of the Plan from the Minutes of the April 2, 2009 PC meeting.
- B. HARB/Historical Commission Report: There was no meeting in April.
- C. Baughman Property: Mark Padula of Regester Associates was present on behalf of the applicant and presented the revised final plan for the Baughman property. He identified the property as located on School House Rd. and briefly described the two-lot subdivision plan. Mr. Padula advised that all of the comments from the Township's consulting engineers have been addressed and referenced the Planning Commission's review and subsequent recommendation for conditional approval to the Board. The issue of landscaping was purposely left open by the Commission for Board consideration. The Board agreed with the PC's recommendation that, due to the open nature of the property, landscaping would not be required.

Mr. Whipple moved, seconded by Mr. Hughes, that the Board conditionally approve the Baughman Final Minor Subdivision Plan dated 11/19/08, last revised 3/30/09, with the suggested waivers and conditions as detailed on pages 1 and 2 of Assistant Mgr. Eastburn's April 15, 2009 memo to the BOS, essentially detailing all the individual items that Chairperson Olivier previously referenced.

Mr. Overton confirmed with the applicant's consultant that Mr. Baughman understands his responsibilities under Act 319 and is aware that there may be significant tax consequences if all or a portion of his property is removed from the protection of the Act.

Motion passed unanimously.

## **Extensions:**

Mr. Whipple moved, seconded by Ms. Latimer, that the Board approves the following requests for extensions:

Brothers Properties Subdivision – June 19, 2009

Megill Homes LLC (Matsen Property) – October 26, 2009

Motion carried unanimously.

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## **Old Business:**

Colonial Meadows Phases II and III – Bond Release: Mr. Whipple moved, seconded by Ms. Latimer, to release the Maintenance Bond for Phase II and Phase III of Colonial Meadows. Motion passed unanimously.

## **New Business:**

### A. Minor Ordinance Revision to Special Use District – Ordinance 2009-02:

Solicitor Thompson convened a public hearing at 7:25 p.m. pursuant to the Municipalities Planning Code on an amendment to the Zoning Ordinance to clarify how mushroom substrate composting operations are permitted in the Special Use District. The Ordinance was amended in 2005 to permit it as a Special Use in the Special Use District. However, the provision in the regulations governing the Special Use District still provided for them by special exception. This Amendment is to correct the error by simply renumbering the section that provides for the use by special exception, changing it to conditional use so that it is consistent with the other sections of the Ordinance governing the use. The exhibits to this Amendment are as follows:

- Exhibit T1 is a copy of the ordinance itself;
- Exhibit T2 is a copy of a letter from the Solicitor's office to the Daily Local News;
- Exhibit T3 is a letter from the Solicitor's office to the CCPC providing the ordinance;
- Exhibit T4 is the public notice itself provided to the Daily Local News;
- Exhibit T5 is the Proof of Publication in the Daily Local News.

The Solicitor asked the Board and the public for questions and comments. There being none, the Solicitor adjourned the Public Hearing and turned the meeting over to the Chairman of the Board who reconvened the public meeting.

Mr. Whipple moved, seconded by Mr. Brindle, that the Board adopt Ordinance 2009-02 Amending the Franklin Township Zoning Ordinance To Revise Part 12, SU Special Use District Section 27-1202 To Provide For Mushroom Substrate Composting By Conditional Use. Motion passed unanimously.

### B. Resolution to Abide by the Municipal Records Manual – Resolution 2009-

13: Solicitor Thompson advised that all townships governed by the 2<sup>nd</sup> Class Township Code and the Open Records Law must pass a resolution resolving to comply with the Open Records Law. Mr. Whipple moved, seconded by Ms. Latimer, that the Board adopt Resolution 2009-13 declaring Franklin Township's intent to follow the schedules and

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procedures for disposition of records as set forth in the Municipal Records Manual approved on December 16, 2008. The motion passed unanimously.

C. Resolution for Retention of Meeting Recordings – Resolution 2009-14:

Solicitor Thompson stated that under the new Open Records Law, tapes of PC and BOS meetings have been deemed to be public records. Therefore in order to dispose of those tapes, you must pass an individual resolution indicating that a tape of a specific meeting has been generated and is now legally eligible to be disposed of. Solicitor Thompson suggests that it can be done at the time the meetings minutes are approved.

Mr. Whipple moved, seconded by Mr. Hughes, that the Board approve Resolution 2009-14 authorizing the disposition of records, specifically the erasing of tape recordings of Board of Supervisors' and Planning Commission's public meetings as follows: Board of Supervisors

Planning Commission

1/5/09

2/5/09

1/21/09

3/5/09

2/11/09

2/18/09

3/04/09

3/18/09

Motion passed unanimously.

D. Resolution for Bleachers to Avon Grove Little League (AGLL) - Resolution

2009-15: AGLL donated bleachers to the Township in 2001 for installation at Crossan Park. Ms. Latimer advised that the bleachers have been stored in the Township barn since that time and have never been installed at the Park. An official of AGLL has requested that the bleachers be returned to them so they can be installed and used elsewhere. Resolution 2009-15 provides for the return of the bleachers to the Little League. Mr. Whipple moved, seconded by Mr. Brindle, that the Board approve Resolution 2009-15 returning the bleachers to AGLL for their use at a better suited location. Motion carried unanimously.

E. 841/896 Flashing Warning Light Award of Installation Contract: Asst. Mgr.

Eastburn advised that a bid opening for the installation of flashing signal lights at the 896/841 intersection was held. Two bids were received as follows: 1) Charles A. Higgins & Sons, Inc., base amount \$8,104; and 2) Lenni Electric Corporation, base amount \$12,895. In his memo of April 13, 2009 to the Board, Engineer Scott Allen recommended that the Township award the bid to the lowest responsible bidder, Lenni Electric Corporation in the amount of \$12,895. Although Charles Higgins & Sons submitted the lowest bid, they failed to provide several key documents to the Township. Mr. Whipple moved, seconded by Mr. Brindle, to accept Engineer Allen's recommendation and award the contract for installation of the flashing signal at the 896/841 intersection to Lenni Electric

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Corporation for the base bid amount of \$12,895. Motion carried unanimously.

- F. Resolution Withdrawing from Round 19 Acquisition Grant – Resolution 2009-16: Mr. Phil Geoghegan, Open Space Chairman, advised that due to the fact that the Board will not be able to complete an acquisition of property by the grant deadline, the Township is releasing the Round 19 Acquisition Grant Contract #9169. By withdrawing from Round 19, the Township remains eligible for an award under Round 21. Mr. Whipple moved, seconded by Ms. Latimer, that the Board approve Resolution 2009-16 withdrawing from the Chester County Round 19 Grant Contract. Motion passed unanimously.
- G. DCNR Municipal Grant Program - Resolution 2009-17: The purpose of this Grant application is to fund the White Clay Creek Regional Recreation Trail Program. Mr. Geoghegan recommended that the Township not continue with this application at this time due to not having all the necessary information needed to be successful. Three of the major issues are: 1) matching funds are not yet secured; 2) permitting process not yet begun; (3) do not yet control the trail right-of-way. There are other issues, but these three are enough to cause the application to fail. Mr. Geoghegan suggests waiting until next April and, in the meantime, continue to work on the planning and organizational issues.

Mr. Geoghegan also provided information he has received from DCNR regarding the process of DCNR taking back the funds which were granted in Round 19. Official documentation is expected but has not yet been received.

Mr. Geoghegan advised that he will need help getting a summer grant application submitted to Chester County.

- H. Budget Resolution – Resolution 2009-18: Ms. Latimer advised that this is a Resolution to allow the appropriation of funds from Budget Item 401.1, Township Mgr.'s Salary, to Item 405.14, Township Office Personnel Salaries; in essence, combining the two categories since there is no Township Mgr. at the present time. Mr. Whipple moved, seconded by Ms. Latimer, that the Board adopt Resolution 2009-18 to re-appropriate funds budgeted at Item 401.1 to 405.14. Motion passed unanimously.

**Public Comment**: No public comment.

**Adjourn**: On motion by Mr. Whipple, seconded by Mr. Overton, the meeting was adjourned at 7:57 p.m.

Respectfully submitted,

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Sharon Norris  
Township Secretary

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