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FRANKLIN TOWNSHIP BOARD OF SUPERVISORS MINUTES JUNE 17, 2009

Call to Order:

Chairman Richard Whipple called the meeting to order at 7:07 p.m. Present were Supervisors Nan Latimer, Norman Hughes, and Eric Brindle. Paul Overton was absent. Also present were Solicitor Mark Thompson; Assistant Township Manager, Jeff Eastburn; Township Secretary, Sharon Norris; and Planning Commission Chairman, Ralph Olivier. There were 14 members of the public in attendance. Solicitor Vince Donohue arrived at 8:17 p.m.

Public Comment: No public comment.

Approval of Minutes:

BOS Minutes – 5/13/09: Mr. Whipple moved, seconded by Ms. Latimer, to approve the Minutes of May 13, 2009 as presented. Motion carried unanimously.

BOS Minutes – 5/20/09: Mr. Whipple moved, seconded by Ms. Latimer, to approve the Minutes of May 20, 2009 as presented. Motion carried unanimously.

Resolution 2009-24: Mr. Whipple, moved, seconded by Ms. Latimer, to approve Resolution 2009-24 authorizing the disposition of records. Motion carried unanimously.

Executive Session: Mr. Whipple announced that there will be an Executive Session after this meeting to discuss ongoing legal activities with Solicitor Mark Thompson.

Reports:

Treasurer's Report: Mr. Whipple moved, seconded by Ms. Latimer, to approve the May 2009 Treasurer's Report, as presented by the Twp. Treasurer, including disbursements and transfers from the General Fund totaling \$108,833.63; the Park & Rec Fund totaling \$11,161.69; the Open Space Fund totaling \$9,794.48; the Emergency Services Fund totaling \$29.99; and the Fire Hydrant Fund totaling \$399.30 with total balances in all funds, at 05/31/09, equaling \$5,559,868.88.

Solicitor's Report: Solicitor Thompson advised that his report was provided to the Board and he has nothing further to report.

Zoning Officer/Bldg. Inspector Report: Mr. Eastburn provided a summary of the Zoning Officer's report which includes the issuance of 10 building permits, total building fees of \$4,284.50 and 32 building inspections. Mr. Whipple commented that one of the building permits was for a new home to be built in White Clay Knoll.

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Planning and Zoning:

Planning Commission Report: Mr. Olivier provided a summary of activities at the May 7, 2009 Planning Commission Meeting including a review of the Charlton Preliminary Plan and a recommendation to the Board for conditional approval. The Commission also recommended to the Board that they adopt the Trail Study as part of the Comprehensive Plan and accept the Keen and Kanzer properties into the Township's Agricultural Security Area.

Charlton Preliminary Plan: Mr. Jim Fritsch of Register Associates was present on behalf of the applicant. Mr. Whipple commented that due the Board's familiarity with the plan, a full presentation by the applicant was not necessary however the applicant wished to discuss three items as follows:

1. Mr. Fritsch stated that Mr. Charlton is in agreement with the payment of the fee-in-lieu of recreational land dedication in the amount of \$2,688.
2. Regarding the Impact Fee of \$38,616.60, the applicant asked the Board to consider the fact that the business is currently located on 896 and therefore there will be no increase in traffic on 896. Mr. Whipple advised that since this is a state statute the Township does not have the authority to go beyond the provisions of the statute. Mr. Fritsch asked the Board to consider lowering the average trips used in the calculation of the fee from 11 trips to 9, allowing credit for the existing single family home on the property. Planning Commission Chairman Ralph Olivier, stated that the use of 11 peak hour trips was agreed to by the applicant and the Township and he had no reason to believe that this fact had not been considered prior to their agreement. Mr. Whipple stated that the Board would follow the Planning Commission's recommendation.
3. Regarding the sidewalk, Mr. Whipple stated that it is acceptable to the Township to have the final plan show that an easement for the right-of-way is available for a trail/sidewalk if the trail committee wishes to pursue it at some point in the future.

Mr. Fritsch asked the Board to grant preliminary plan approval.

Mr. Whipple moved, seconded by Ms. Latimer, to approve the Vaughn Charlton Preliminary Land Development Plan dated 12/12/09, last revised 5/21/09, with the condition that all necessary Final Plan approval items, including but not limited to the following, be addressed to the satisfaction of the Township:

1. All appropriate legal documents be in a form acceptable to the Township Solicitor and Township Engineers (and in a form acceptable for recording where appropriate), including but not limited to the following:
 - Declaration of Covenants
 - Subdivision and Land Development Agreement
 - Subdivision and Financial Security Agreement (in accordance with construction cost estimates agreed to by the Township Engineer)
 - Stormwater Management Facilities Maintenance Agreement

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- Sewage Holding Tank O&M Agreement
2. Receipt by the Twp. of an approved PennDOT Highway Occupancy Permit
 3. Compliance with all outstanding conditions and comments as set forth in the Township consulting engineer's review letters, including but not limited to:
 - LTL Review Letter dated May 22, 2009
 - Tetrahedrons' Review Letter of May 29, 2009
 - URS's Review Letter of May 29, 2009 and June 16, 2009
 - McCormick Taylor's Review Letter of May 29, 2009.

Including, the addition of any required notes or additions to the Final Plans (including but not limited to notes for items 1, 2 & 3 of the Summary and Recommendation section of the 5/29/09 Tetrahedron letter).

4. A fee-in-lieu of recreational land dedication of \$2,688 to be paid to the Township in two installments, one-half at the issuance of a building permit and one-half at the issuance of a certificate of occupancy.
5. Payment of an impact fee pursuant to the Township Traffic Impact Fee Ordinance in the total amount of \$38,616.60 (based on 11 peak hour trips at \$3,510.60/trip) to be paid as specified by the appropriate Ordinance at such time as a building permit is issued.
6. Inclusion in the final plan of a designated space for a potential future sidewalk/trail, including an easement or whatever is necessary in order for a sidewalk/trail to be installed at a future time.
7. Payment of outstanding and expected legal/consultant review expenses and funding of the appropriate escrow account in accordance with Twp. policies, prior to issuance of a building permit.

Motion passed unanimously.

Extensions:

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

Morris to January 22, 2010

Brothers Property to August 20, 2009

Motion carried unanimously.

Old Business:

Avon Grove Charter School (AGCS) – Certificate of Occupancy (CO): Mr. Whipple explained that the reason this is on the Agenda is to publicly acknowledge an action

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taken by LTL in the issuance of another temporary CO to the AGCS to run through the end of August 2009 in order for the school to complete their parking facility and the realignment of Peacedale Road.

New Business:

- a. *Mushroom Ordinance #2009-03 – Public Hearing:* Solicitor Mark Thompson opened the public hearing and explained that this Ordinance was previously considered by the Board on April 18, 2009 however it was not advertised twice as required by the Municipalities Planning Code (MPC). A second public hearing was scheduled and properly advertised for tonight in order to enact the Ordinance. The Ordinance was provided to the Chester County and the Township Planning Commissions by letter dated February 26, 2009. Solicitor Thompson summarized the purpose of the Ordinance which is to change Section 27-1202 to refer to mushroom composting operations as a conditional use rather than a special exception making the definition consistent throughout the Ordinance. Solicitor Thompson marked the following Exhibits:
- T 1 – Ordinance 2009-03
 - T 2 - Letter to the Daily Local News dated May 29, 2009 from Mark Thompson
 - T 3 - Public Notice placed in the Daily Local
 - Proof of Publication that the notice ran on June 3 and 10, 2009 as required by the MPC.

Solicitor Thompson invited comments from the public.

Ms. Linda Creighton asked whether the ordinance is related to mushroom growing or only composting. Mr. Thompson explained the purpose of the ordinance. There being no further public comment, Solicitor Thompson closed the public hearing.

Mr. Whipple moved, seconded by Mr. Brindle, that the Board adopt Ordinance 2009-03, 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. *Agricultural Security Area (ASA) Additions, Resolution 2009-25 - Public Hearing:* Solicitor Thompson opened the public hearing for consideration of a resolution to include two new properties, (four individual tax parcels) in the existing Franklin Township's ASA. The Solicitor explained the process followed by the Township and marked the following exhibits:
- T1 – Public Notice advertising tonight's hearing.
 - T2 – Proof of publication of that notice in Daily Local News.
 - T3 – The Report from the ASA Committee recommending that these properties be included.
 - T4 – The Report from the Planning Commission recommending the inclusion of the properties.
 - T5 – The Resolution identifying the parcels as follows: Rebecca and Michael Kanzer, Tax Parcel 72-5-25 for 36 acres. Shirley Harless Keen

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c/o Craig Rubadoux Parcel Nos. 72-2-49 for 5.5 Acres; 72-2-61 for 78 Acres; and 72-2-63 for 18.4 acres.

- T-6 – Two maps showing the location of the posting of both properties.

Solicitor Thompson invited comments from the public.

Mr. Bill Skalish asked what the purpose is of placing a property in the ASA, whether the program has anything to do with Act 319 and the minimum amount of land required to participate. Mr. Whipple provided information regarding the advantages to the farmer/owner and advised that the ASA has nothing to do with Act 319. Ms. Latimer advised that the minimum amount of land necessary to participate is 10 acres and advised him to go on line to www.agricultural.state.pa.us for additional information.

Mrs. Pat Hearne asked if the land owner gives up ownership to the Township by participating in the ASA. Mr. Whipple confirmed that the land owner continues to own the land.

Ms. Linda Creighton asked if the property can still be developed in the future and what happens when ownership changes. Mr. Whipple stated that the designation stays with the property until the owner opts out of the program.

Mr. David Fizer asked if mushroom growing and/or mushroom composting are considered farming activities and if a mushroom grower in the ASA could begin a mushroom composting activity and be protected from neighbor's complaints. Solicitor Thompson stated that mushroom growing is clearly an agricultural activity while mushroom composting is regulated as more of an industrial activity in Franklin Township and is limited to certain zoning districts.

Mr. Harrison Stanley asked for the web address given earlier for information on the ASA.

Hearing no further public comment, Solicitor Thompson closed the public hearing.

Mr. Whipple moved, seconded by Mr. Brindle, to approve Resolution 2009-25 confirming the adoption and approving proposals to make additions to the Franklin Township, Chester County, Pennsylvania Agricultural Security Area. Motion carried unanimously.

- c. Trail Feasibility Study & Master Plan, Resolution 2009-26 – Public Hearing: Solicitor Thompson advised that this is a hearing on an amendment to the Township's Comprehensive Plan to include the Franklin Township Trail Feasibility Study and Master Plan which was developed by the Township Planning Commission and was previously approved by the Township as the official trail study. This hearing will make the Trail Feasibility Study a separate section of the Comprehensive Plan. This enactment process is governed by the MPC and the enacting document is a Resolution, not an ordinance. Solicitor Thompson marked the following exhibits:

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- T1 – The Public Notice advertising tonight's hearing.
- T2 – Proof of publication that the notice appeared in the Daily Local on June 4 and 10, 2009.
- T3 – Resolution 2009-26. Part of the Resolution is the Trail Feasibility Study dated May 29, 2009.

The solicitor called for public comment. There being none, the Solicitor closed the hearing on the Trail Feasibility Study.

Mr. Whipple moved, seconded by Ms. Latimer, that the Board adopt Resolution 2009-26 adopting the Franklin Township Trail Feasibility Study and Master Plan as an amendment to the Franklin Township Comprehensive Plan. The motion carried unanimously.

- d. Property South of Churchill Road – Resolution 2009-27: Ms. Latimer advised that this property is being eased through a conservation easement with Brandywine Conservancy and an agricultural easement through Chester County. The owner is also providing a trail easement through his property. This Resolution authorizes the Township to pay the expenses for the conservation easement with Brandywine Conservancy as well as the trail easement. Mr. Whipple moved, seconded by Mr. Brindle, that the Board adopt Resolution 2009-27 in order to further the authorizations undertaken by previous Resolution 2008-29 by specifically authorizing the funding of the transactions associated with the donations of the trail easement and the Brandywine Conservancy easement. Motion passed unanimously.
- e. Conservation Plan for Ag Easement: Mr. Whipple explained that there are associated costs when a landowner decides to donate or sell the development rights to one of the Ag Preservation Plans run by the state, county or Township. It is the intent of the Township to use open space funds to support the landowner's efforts to preserve their property. Mr. Whipple moved, seconded by Mr. Brindle, to authorize the use of open space funds to assist landowners with the cost of conservation plans up to \$1,000 and appraisal costs up to \$500 in connection with applications to the Chester County Agricultural Preservation Board for agricultural preservation easements where the Township becomes a co-grantee of the easement. Conservation plans will be contracted for and paid directly by the Township and appraisal fees will be paid to the County Agricultural Preservation Board. Submittal of the application by the landowner is a condition precedent to the Township agreeing to contribute funds for a conservation plan and/or appraisal. Motion carried unanimously.
- f. Resolution to Expend Open Space Funds: Mr. Whipple advised that recently a Franklin Township resident finalized an Ag Easement thus dedicating their property to agriculture forever. The following resolutions are in support of property owners who wish to do the same thing.
1. Resolution 2009-28: Mr. Whipple moved, seconded by Mr. Brindle, to adopt Resolution 2009-28 approving the expenditure of up to \$1,000 of open space funds to be used to fund a conservation plan for a 102 acre property in Franklin

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Township located on Auburn Rd., south of Church Hill Road. Motion passed unanimously.

2. Resolution 2009-29: Mr. Whipple moved, seconded by Mr. Brindle, to adopt Resolution 2009-29 approving the expenditure of up to \$1,000 of open space funds to be used to fund a conservation plan for an 80 acre property located north of Chesterville Rd., west of the intersection with Walker Rd. Motion passed unanimously.
3. Resolution 2009-30: Mr. Whipple moved, seconded by Mr. Brindle, to adopt Resolution 2009-30 approving the expenditure of up to \$1,000 of open space funds to be used to fund a conservation plan for a 105 acre property located north of Hess Mill Rd. and east of Conards Mill Rd. Motion carried unanimously.
4. Resolution 2009-31: Mr. Whipple moved, seconded by Mr. Brindle, to adopt Resolution 2009-30 approving the expenditure of up to \$1,000 of open space funds to be used to fund a conservation plan for a 41 acre property north of Walker Rd., mostly east of Franklin Rd. Motion carried unanimously.

g. Chester County GIS Tier Discussion: The Township joined the Chester County Consortium last year. The Consortium provides support with projects and also allows on line access to all the information the County has on any property within the Township. Last year the Township subscribed to Tier 3 which provides the most support and costs the most. Ms. Latimer has researched the needs of the Township and the services provided by each of the three tiers and is recommending that the Township subscribe to Tier 2 this year, which is a 12 month membership with 100 hours of support at a cost of \$3,600. Ms. Latimer believes Tier 2 will be sufficient to meet the needs of the Township because the Staff will not need as much project support this year. Mr. Whipple so moved, seconded by Mr. Hughes. Motion carried unanimously.

h. ASA application – Schulz Property: Mr. Whipple moved, seconded by Mr. Brindle, to accept the application of Robert & Susan Schulz for the addition of a 12.3 acre parcel identified as 72-4-39, to the Franklin Township Ag Security Area. Ms. Latimer added that the Schulz property is already in the ASA with the exception of the parcel which they are now adding. The motion passed unanimously.

Public Comment: A resident referenced Resolution 2009-28 and asked if that landowner wants to put that property in a conservation easement. Mr. Whipple advised that providing an answer to that question would be a violation of privacy but one can conclude by the action taken that that is the case.

A resident asked for a definition of "open space" and how long a property remains in open space. Ms. Latimer advised that "open space" is a term used to define a property that has been protected in some way from development. She explained some of the methods used to achieve that protection and advised that the property is preserved forever but the landowner still owns the property. If the property is sold it is still preserved.

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Virginia Stanley asked if having a property in open space means that it's accessible to the public. Ms. Latimer advised that it is not open to the public unless it is purchased by the Township or the landowner has received public money for the development rights and/or if a trail easement has been granted by the owner. The use of the open space is determined by the source of any payment and what kind of easement is on the property.

Mr. Olivier asked about the status of the GIS summer intern and the training on using the GIS system. Ms. Latimer advised that the summer intern ("Luke") has started and is working on the sign inventory. Mr. Eastburn advised that the Arc View software has arrived and Luke has already begun to set it up. The original plan was to have Luke conduct training on Arc View when the weather prevents him from working outside, however other options are being considered.

Mr. Earl Hatton thanked the Board for the assigned seat and advised members of the audience that it takes a lot of meetings to earn that status.

A resident (Mr. Bill Skalish) spoke about seeing someone in a four wheeler intentionally set a fire on Church Hill Rd. and two brush fires on the creek side of Creek Rd. The resident reported the fires and gave information to the Fire Marshall.

Virginia Stanley mentioned that there is a large hay field off Church Hill Rd. which she believes to be a major fire hazard.

Other incidents of vandalism were discussed. The Board made suggestions such as a neighborhood watch and keeping a camera handy to record incidents of vandalism. Mr. Whipple thanked the residents for their concern and for reporting the incidents to the authorities.

Several residents made very positive comments about the road crew that is doing the paving in the Township, saying they are polite, friendly and professional and are just "nice people".

Adjourn: The meeting was adjourned at 8:27 p.m.

Respectfully submitted,

Sharon Norris
Township Secretary

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