

APPROVED

FRANKLIN TOWNSHIP BOARD OF SUPERVISORS MINUTES NOVEMBER 18, 2009

Call to Order:

Chairman Richard Whipple called the meeting to order at 7:02 p.m. Present were Supervisors Brindle, Latimer & Overton. Also present were Solicitor Mark Thompson, Assistant Township Mgr. Jeff Eastburn, Planning Commission (PC) Chairman Ralph Olivier, and Township Secretary Sharon Norris. Supervisor Hughes and PC Secretary, Richard Squadron arrived at 7:07 p.m. prior to any official business being conducted. Planning Commission members Drs. Harris and Hoffman, and Township Engineer Scott Allen arrived during the DVRPC presentation. There were 15 members of the public in attendance.

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

Public Comment: Mr. Whipple explained that the public comment procedure is being modified slightly for this meeting. Normally the first public comment session is for agenda items only and the second public comment is for anything Township related. For tonight's meeting, public comment sessions will follow the DVRPC Presentation and the discussion on hunting. Mr. Whipple also explained that he will move the DVRPC Presentation forward on the agenda because the presenters have a distance to travel.

The Chairman asked if there was any public comment on the remaining agenda items. Douglas Brown, the Legislative Director for Representative Houghton, introduced himself and offered his services to facilitate the availability of resources to Franklin Township.

Approval of Minutes: There were no minutes to approve.

Reports:

- a. **Treasurer's Report:** Mr. Whipple moved, seconded by Ms. Latimer, to approve the October 2009 Treasurer's Report as presented by the Township Treasurer, including disbursements and transfers from the General Fund totaling \$119,257.49, the Park & Rec Fund totaling \$26,872.30, the Open Space Fund totaling \$91,169.28, the Emergency Services Fund totaling \$29.99, and the Fire Hydrant Fund totaling \$399.30. Total balances in all funds as of 10/31/09 equal \$4,686,296.42. Motion passed unanimously.
- b. **Zoning Officer Bldg. Inspector Report:** Mr. Eastburn summarized the Zoning Officer's Report which included the issuance of 10 building permits in the amount of \$2,143.35 and the completion of 42 building inspections.

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Planning & Zoning:

- a. *Planning Commission Report:* Planning Commission Chairman Ralph Olivier summarized the actions taken by the Commission at their November 5, 2009 Meeting.

New Business:

- a. *The Delaware Valley Regional Planning Commission (DVRPC) Traffic Taming Presentation:* Mr. Whipple introduced Kevin Murphy of the DVRPC and Natasha Manbeck from the Chester County Planning Commission (CCPC). Mr. Whipple expressed appreciation, on behalf of the Township, for their interest and attention to Franklin Township and the 896 corridor.

Ms. Manbeck expressed thanks and congratulations to Franklin Township for their commitment to planning and preparing for the future. She complimented the Township on their Comprehensive Plan and the Traditional Neighborhood Development (TND) Plan and indicated that those are two of the reasons that the CCPC and the DVRPC are in support of the Taming Traffic Study in this area. They expect it to be helpful not only to Franklin Township, but also to other municipalities who have a similar set of circumstances. She stated that although she doesn't have a specific update on the 896 road safety audit design work, she is told that it should be starting shortly and PennDOT has promised to involve municipalities in the design process.

Mr. Kevin Murphy took the floor and provided a thorough review of the Study which is called "Taming Traffic – Context-Sensitive Solutions (CSS) in the Delaware Valley". CSS describes an approach to transportation planning that attempts to enhance communities and natural environments, while balancing the competing needs of all modes of travel. CSS originated as part of the National Environmental Policy Act of 1969 (NEPA). DVRPC is the designated metropolitan planning organization for a nine county region of the Delaware Valley, which includes five counties in PA (Philadelphia, Delaware, Chester, Bucks and Montgomery) and four in New Jersey. Copies of the entire study are available at www.contextsensitivesolutions.org.

Mr. Murphy identified the approximately one mile stretch of Rt. 896 between Good Hope Road and Parsons Road as the specific area that was studied in Franklin Township, and explained the process that was followed in selecting the Township and that particular location. The decision was based on such things as traffic volume, crash analysis, roadway sufficiency analysis, the 896 Corridor Study, the Comprehensive Plan and the Roadway Safety Audit which DVRPC conducted. He stated that the TND Plan probably sealed the decision because it provides them with the opportunity to be proactive by creating a plan to manage the impact of such a development on a community. The Study Committee consisted of representatives from the Township, Chester County and PennDOT.

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From his slide presentation, Mr. Murphy detailed the areas where changes are being proposed and described the proposed changes. He showed before and after photographs of specific areas involved in the Study. He reviewed the potential costs of some of the concepts he recommended and suggested less expensive alternatives by using less expensive materials. Mr. Murphy concluded his presentation and asked Ms. Manbeck for final comments. She spoke briefly about possible funding opportunities and indicated that since PennDOT is planning to implement some of the recommendations that came from the road safety audit, perhaps there is some safety money available that the Township could access. She expressed her hope that the Township will embrace the plan and will implement some of the suggested improvements.

Public Comment Related to the DVRPC Presentation: The following questions were asked during the Public Comment session:

- Mr. Whipple asked for an explanation of vertical and horizontal curves.
- Mr. Overton asked if there would be a left hand turn lane going north on 896 at Appleton Rd.
- Mr. John Auerbach commented that due to buildings being close to Appleton Rd., realignment is not reasonable and asked if any engineering studies were done. Mr. Auerbach also asked if any traffic signals were being recommended.
- Mr. Whipple said that PennDOT engineers assessed the area during a previous study and indicated that removing the island would allow a 90 degree turn.
- Mr. Olivier commented that he thought some of the recommended changes were uninspired and asked if recommendations from the study committee are usually taken as presented or are they perhaps supplemented by ideas from within the community. Mr. Olivier also asked what the next step is and does the committee get involved with the community's implementation planning process.
- Mr. Squadron asked if the group prioritized any of their suggestions to be implemented over time.

The public comment section ended and Mr. Whipple called for a short recess. The meeting was reconvened at 7:57 p.m.

Planning and Zoning, cont'd:

- b. *Energy Endeavors:* John Charette, Shawn Sheehan and Pete Jones were present on behalf of the applicant. Mr. Charette stated that the Plan had been recommended for final approval by the Planning Commission contingent upon certain conditions. He advised that he has been working with the Township Solicitor to finalize the legal agreements and the only issue to be discussed with the Board is the Traffic Impact Fee. The applicant disagrees with the number of peak hour trips that was used to calculate the fee and is requesting the Board to allow them to conduct an actual traffic study which the applicant believes is permitted by the Township's ordinance. They are willing to put the \$21,063 in escrow pending the outcome of such a study. Mr. Whipple advised that although

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the Board is sympathetic to the applicant's argument, by statute, such a proposal must be made prior to preliminary plan approval and made a condition of preliminary plan approval. Instead, the fee was agreed to by all parties at that time. Making an exception for Energy Endeavors would set a precedent which could then be requested by other applicants. The Solicitor confirmed that the MPC requires that the impact fee be set at time of preliminary plan approval and further explained that in order to be eligible to receive approval for such a study at this point in the process, it would have to be done in the context of an appeal. The applicant understood the Board's position and had no other issues.

Mr. Whipple moved, seconded by Ms. Latimer, to approve the Energy Endeavors LLC's (aka Property Endeavors) Final Land Development Plan dated 9.18.09, last revised 10.28.09, 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:

- Completion and execution of all appropriate legal documents 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:
 1. Declaration of Covenants
 2. Subdivision and Land Development Agreement
 3. Subdivision and Financial Security Agreement (in accordance with construction cost estimates agreed to by the Township Engineer).
 4. Stormwater Management Facilities Maintenance Agreement
 5. Trail/Path Easement Agreement
 6. Reserve Parking Agreement
 7. Compliance with any and all outstanding conditions and comments as set forth in the Township consulting engineer's review letters, including but not limited to:
 - a. LTL 's review letter of 10.29.09
 - b. LTL's review letter of 10.26.09
 - c. Tetrahedron's review letter of 9.25.09
 - d. URS's review letter of 9.24.09
 - e. McCormick Taylor's review letter of 9.24.09
- A fee-in-lieu of recreational land dedication of \$3,240 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.
- Payment of an impact fee pursuant to the Township Traffic Impact Fee Ordinance in the total amount of \$21,063.60 (based on six PM 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.
- Payment of outstanding and expected legal/consultant review expenses and funding any and all appropriate escrow accounts in accordance with the Township policies, prior to the plans and agreements being released for recording.

Motion passed unanimously.

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- c. Strawbridge Property: Attorney John Jaros and Mr. Andrew DeFonzo of D.L. Howell Associates were present on behalf of the applicant. Mr. Jaros stated that Mr. Strawbridge owns just over 1,700 acres in Chester County and has placed 735 of those acres under agreement of sale to the Conservation Fund, 471 of those acres are in Franklin Township. The property in question is the 278 acres in Franklin Township which will be going to the Conservation Fund and this application essentially carves out a 5-acre homestead lot, located on the south side of Strickersville Rd. across from Mt. Olivet Rd. & Peter Christopher Dr. The applicant appeared before the Planning Commission on November 5th and received a recommendation to the Board of Supervisors for approval. Mr. Jaros stated that the applicant is requesting approval from the Board of the Final Minor Subdivision Plan and is available to answer the Board's questions.

Mr. Whipple moved, seconded by Ms. Latimer, to approve the Strawbridge Final Minor Land Development Plan dated September 4, 2009, last revised November 9, 2009, with waivers 1 through 9 as described on the plans, 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:

- Completion and execution of all appropriate legal documents 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:
 1. Declaration of Restrictions and Covenants, which is to be recorded, restricting Lot 1, a 5-acre parcel, against further subdivision.
 2. Access Easement Agreement, which is to be recorded, concerning the gravel farm drive from Augustine Lane to the adjoining parcel that crosses the strip of land of the proposed lot that extends to Strickersville Road.
 3. Payment of all outstanding and expected legal/consultant review expenses and funding any and all appropriate escrow accounts in accordance with Township policies, prior to the plans and agreements being released for recording.

Mr. Jaros stated that he appreciated the Township's expeditious handling of this matter. He has provided several copies of the Plan to Mr. Eastburn for execution by the Board. The Plan has been signed by Mr. Strawbridge, however one signature is missing because the individual is out of the country. They should be able to obtain that signature by the end of the month. Mr. Jaros said he would appreciate it if the Township would sign the Plan during the interim period.

The motion passed unanimously.

Since the next agenda item, "Hunting", has the potential to be a long discussion, Mr. Whipple placed it after the final public comment, to accommodate the residents from Franklin Chase who are waiting to discuss current issues in their development.

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Public Comment – Franklin Chase (FC): Mr. Tom Ross, a resident of FC, introduced fellow residents David Snyder, Bill Steele, Shawn Mitchell and Mike Nardozzi. Mr. Ross reported that 75% of the roads in FC are now paved and thanked the Board for their behind-the-scenes help in achieving this milestone. The following questions/issues were introduced by the FC residents:

- Mr. Ross asked the Board for input regarding the process and timeline for road dedication and what the plan is if snow arrives prior to dedication.
- Mr. Shawn Mitchell asked what they should do if the bank, or developer, doesn't plow the roads? Mr. Mitchell commented that there are several pregnant women in the development and asked how long they should wait before contacting the Township.
- Mr. Mike Nardozzi apologized for using the Township as the middle man but since they do not have names and numbers of individuals at the bank, they have no choice but to contact the Township.
- Mr. Bill Steele asked about the completion of the landscaping, specifically the completion of the retention basins.

There was further discussion regarding the skepticism of the FC residents and Mr. Whipple attempted to reassure them by stating that the Township has been systematically and diligently working with all parties and has developed a general good faith working relationship with the bank and the new developer and he believes it will continue. It is in the best interest of all parties to continue to cooperate.

New Business:

- b. *Hunting Discussion:* Mr. Paul Overton and Mr. Gary Moore provided background information to establish a basis for the discussion. Mr. Overton lives on Church Hill Road adjacent to the Banffshire Preserve, which is a popular hunting area. Although the discussion focused on Banffshire, any suggestions or decisions are intended to apply to all Township-owned property. Mr. Overton expressed concern that all the properties along Creek Road are posted except Banffshire, possibly making it the "place to go" for all hunters, local and out-of-state, and creating the opportunity for an out-of-control environment. He recognizes the need for hunting to control the deer population, but is seeking a way to permit it without jeopardizing the safety of the public who wish to use the land for recreational non-hunting purposes. In preparing for this meeting Mr. Overton looked at the plans implemented by Natural Lands Trust (NLT), White Clay Creek (WCC) Preserve and Fair Hill. He identified the NLT Plan as the one he prefers. It does not allow hunting or shooting by individuals unless they have specific permission. It permits organized groups or clubs to hunt in a controlled manner on specific days. The club or group is insured, and its members are educated in proper hunting safety. Mr. Gary Moore, a Township resident who lives on the other side of Creek Road, stated that there is a definite increase in hunting activity in the area. He said he is not against hunting but is against poaching and illegal hunting, and is in support of some form of managed hunting. He cited two situations where irresponsible hunters could have caused serious injury or death to residents of the Township.

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Public Comment Related To Hunting: The following members of the public were involved in the public comment session: Ralph Olivier, Joe Neuman, John Auerbach, Phillip Reed, Dave Hoffman, Richard Squadron, John Hocking, and Doug Brown. After a lengthy discussion of the issues and individual opinions, the bottom line appeared to be that no one is in favor of completely prohibiting hunting on Township property but everyone, with the exception of Mr. Auerbach, believes that some form of management needs to be implemented that will provide for the safety of hunters and non-hunters who are using the Township properties concurrently.

- Mr. Auerbach read a prepared statement which basically says that he does not support and specifically opposes any hunting restrictions on publicly owned land in the Township. His position is that it is the hunter's responsibility to manage any safety issues that occur and the state has rules and regulations written by the Fish and Wildlife Commission that must be followed.
- Phillip Reed and Dave Hoffman were in favor of the program that is in effect at White Clay Creek Preserve which allows for multi-use but is simple to implement and doesn't require a great deal of infrastructure.
- Ralph Olivier asked for clarification of how state law applies to privately owned property vs. publicly owned property and later suggested that the trails be closed and hunting be permitted during specific hours.
- Joe Neuman suggested asking for help from the Deputy Game Protector in this area as well as Keith Mullen, the District Mgr.
- Richard Squadron said that the Township has an obligation to make sure that it doesn't put itself in a position where it's open to liability.
- John Hocking said his property is not posted but they limit the number of hunters that are allowed on the land at any one time. He also said that before bringing in an organized club to hunt Banffshire or any other Township property, adequate parking would have to be available.

Since hunting season is upon us, it was decided that the quickest way to restrict hunting this year is to post the properties, prohibiting hunting on Township land without the permission of the Township. The Solicitor said that the posting would act as a deterrent but is not legally enforceable without an ordinance. The Solicitor will prepare an ordinance for consideration at the December 9, 2009 Board meeting and a supporting document, which does not have to be part of the ordinance, will be prepared that outlines the details of the plan and how decisions are going to be made. Mr. Overton stated several times that the Township does not have enough staff to formulate and administer this plan and asked for volunteers.

Mr. Whipple suggested that a motion be made to post all Township property and to request that the Solicitor prepare an ordinance for consideration at the December 9, 2009 Board meeting. Mr. Overton so moved, seconded by Mr. Brindle. The motion passed unanimously.

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Public Comment: Mr. Olivier noticed during the DVRPC presentation that the exit lights in the meeting room are not working properly and suggested that they be fixed.

Mr. Brindle asked the body of hunters who were present at the meeting to provide any other thoughts they may have to the Township office staff.

Mr. Neuman mentioned that he did not know that hunting is allowed on NLT land and said that that fact is not widely known.

Adjourn: Mr. Whipple adjourned the meeting at 9:47 p.m.

Respectfully submitted,

Sharon Norris
Township Secretary

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