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## FRANKLIN TOWNSHIP BOARD OF SUPERVISORS MINUTES SEPTEMBER 15, 2010

### **Call to Order:**

Chairman Richard Whipple called the meeting to order at 7:03 p.m. Present were Supervisors Brindle & Latimer. Supervisors Overton and Hughes were absent. Also present were Solicitor Mark Thompson, Assistant Township Mgr. Jeff Eastburn, Township Secretary Sharon Norris, and Planning Commission Chairman Ralph Olivier. There were approximately 15 members of the public in attendance. Mr. Whipple explained that because only three members of the Board are present, in order to be in compliance with the 2<sup>nd</sup> Class Township Code, all three supervisors must vote in favor of any motion in order for the motion to pass.

**Executive Session:** Mr. Whipple announced an Executive Session following the meeting to discuss ongoing litigation.

**Public Comment:** No Public Comment.

### **Approval of Minutes:**

- a. August 18, 2010: Mr. Whipple moved, seconded by Ms. Latimer, that the Board approve the August 18, 2010 Minutes as presented by the Township Secretary. Motion carried unanimously.
- b. Resolution 2010-29: Mr. Whipple moved, seconded by Mr. Brindle, that the Board approve Resolution 2010-29, regarding the Disposition of Records. Motion passed unanimously.

### **Reports:**

- a. Treasurer's Report: Mr. Whipple moved, seconded by Ms. Latimer, to approve the August 2010 Treasurer's Report as presented by the Township Treasurer, including disbursements and transfers from the General Fund totaling \$97,699.09; the Park & Rec Fund totaling \$31,019.16; the Parkland & Recreation Facilities Fund totaling \$22,529.35; the Open Space Fund totaling \$9,407.77; the Capital Reserve Fund totaling \$162,000.00; the Highway Aid Fund totaling \$24,340.95; Emergency Services Fund totaling \$29.99; and the Fire Hydrant Fund totaling \$399.30. Total balances in all funds as of 8.31.10 equal \$2,758,879.71. Motion passed unanimously.
- b. Solicitor's Report: No report.
- c. Zoning Officer Bldg. Inspector Report: Mr. Eastburn summarized the Zoning Officer's Report which included the issuance of 6 permits in the amount of \$2,580.35, including one new home permit. Twenty-Five (25) various building inspections were conducted.

### **Planning & Zoning:**

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- a. Planning Commission Report: Chairman Olivier advised the Board that the Planning Commission did not meet in the month of September due to having no business to discuss.
- b. HARB/Historical Commission Report: Mr. Olivier advised that the HARB met on Tuesday September 7, 2010 to consider the Certificate of Appropriateness (COA) for 1731 New London Road. The application was for the installation of an Ondura roofing material over the existing roof. After reviewing the Secretary of the Interior Standards, the HARB found that the application for the installation of this material is not in conformance with Standards B, E, F, & I; Standards A, C, D & H were not applicable; the proposal did conform to Standard J. Therefore the HARB recommends to the Board that the COA be denied. In answer to a question from Ms. Latimer, Mr. Olivier said the standards are very general and he is not aware that any changes have been made in the last 20 years. Mr. Whipple moved, seconded by, Ms. Latimer, to follow the guidance of the HARB and disapprove the installation of Ondura roofing at the residence located at 1731 New London Road with the Township staff to work with the HARB and the Building Inspector to follow the applicable procedure for disapproval as specified in Codified Ordinance 11-601-11. Mr. Whipple explained that the procedure includes that written notification be provided to the Building Inspector, the applicant and the PA Historical and Museum Commission. The vote was 2-1, with Supervisor Brindle voting "nay." The motion failed. The Solicitor will review how to proceed in this instance and advise Mr. Eastburn.

### **New Business:**

- a. Dogs in Crossan Park: Mr. Whipple moved, seconded by Mr. Brindle, to modify the rules initially established by the Park Committee for Crossan Park, and to change the rule that indicates "no dogs" to instead state that dogs must be on leashes and under the control of the owner or other person that is walking the dog or dogs. The motion passed unanimously.
- b. Avon Grove Charter School (AGCS) Road Dedication – Resolution 2010-30: Attorney Jack Wuerstle was present on behalf of the AGCS. Mr. Wuerstle expressed concern regarding what he felt was non-specific language of condition #5 of the draft motion which had been provided for his review, and asked if the Board would be willing to tailor the language so that it is clear that it applies only to the dedication of Peacedale Road. After a brief discussion, the language of the following motion was agreed to by both parties: Mr. Whipple moved, seconded by Mr. Brindle, to approve Resolution 2010-30 to accept dedication of the relocated bed of Peacedale Road granted by the Avon Grove Charter School (AGCS), conditioned upon completion to the satisfaction of the Township Solicitor, items including, but not limited to, the following:
1. AGCS paying all outstanding fees owed to Franklin Township related to the construction of the school and road improvements.
  2. All dead and dying trees installed by AGCS shall be replaced.
  3. Review and approval by the Township Engineer of a Deed of Dedication and As-Built Plans for the relocated bed of Peacedale Road.

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4. Provision of acceptable financial security in the form of a Letter of Credit pursuant to the September 10, 2010 letter of Bob McClintock, Esq. and the Maintenance Security Agreement.
5. Any other engineering or site issues concerning the dedication of relocated Peacedale Road as inspected and determined by the Township Engineer.

Motion passed unanimously.

- c. Motion to Terminate Tax Collector Contract: Mr. Whipple moved, seconded by Mr. Brindle, to terminate the existing Tax Collector contract, effective at the end of business on December 31, 2010, with Berkheimer, for collection of the Franklin Township Earned Income Tax (EIT) as part of the Act 32 process whereby all EIT levied by municipalities and school districts in Chester County are to be collected by Keystone Collections Group, effective January 1, 2011. Motion passed unanimously.
- d. Tax Parcel 72-3-9 Motion for Consent of Sale: Mr. Whipple moved, seconded by Mr. Latimer, authorizing Assistant Mgr. Eastburn to execute and return to the Chester County Tax Claim Bureau, the Notice for Repository Sale, for the sale of the former Henry Holliday property, Tax Parcel #72-3-9, from the Chester County Tax Claim Bureau's repository. Motion passed unanimously.

**Public Comment – Deer Management (DM):** The following members of the public participated in the public comment session:

Dave Fizer	Tracy Fizer	Richard Riale	Bill Skalish
Carol Olivier	John Auerback	Gary Bevins	Bob Macknis
Michael McKee	Mark Zawada	Eric Johnson	Liz McKee

Wildlife Conservation Officer, Keith Mullen.

Several residents who live adjacent to two of Franklin's Open Space Preserves had questions about the planned Deer Management Program (DMP) and the Deer Management Group (DMG). Mr. Brindle is the Board's representative on the DMG and acts as Chairman of the group. He provided most of the responses to the public's concerns. In addition, Wildlife Conservation Officer Mullen provided significant information and clarification in response to the residents' questions, as well as insight based on knowledge and experience gained from almost two decades serving as a Wildlife Conservation Officer. The topics that created the most discussion are listed below:

- Public properties and trails being closed and not available to residents. Response: Banffshire and Franklin Preserves will be closed during gun DM for two weeks. All properties will remain open during archery DM and will be unavailable for archery DM between the hours of 10 a.m. and 2 p.m. Mon – Sat and all day on Sundays.
- The safety of residents and horses while DM is occurring. Response: Mr. Brindle reiterated several times that in his opinion the DMG will create a much safer environment for people and animals than that which currently exists. He states that these properties were hunted before the Township acquired them and he has

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found evidence that illegal hunting and poaching continues today. One of the goals of the DMG is to reduce illegal hunting and poaching on these properties by conducting legal hunting by known individuals and monitoring the properties on an ongoing basis.

- Communication of the DM topic to residents. Response: One of the Township Supervisors sends out Franklin Township related email Updates that reportedly get into the hands of 1,000 – 2,000 residents, and recipients are urged to forward the Updates to their fellow Township residents. The topic has been mentioned in those Updates numerous times. There was a front page article in the Avon Grove Sun newspaper involving an interview with Eric Brindle regarding the proposed DMG. DMG meetings have been advertised. It has been mentioned in the Township newsletter and was discussed for 2-3 hours at the August 2010 BOS public meeting.
- Potential cost of the Lyme Disease program as well as possible negative aspects of such a program. Response: Mr. Brindle said he would have no problem defending the program to the population at large. The feeders and Permethrin chemical would be paid for by the Township, the same as all other public safety related items. There was concern from one resident that if you start a feeding program you have to keep it up for the survival of the deer. Wildlife Conservation Officer Mullen stated that this should not be a concern in this area because of all of the agricultural fields, residential landscaping and large viable tracts of wild feed. He explained that the corn is used to attract the deer and the Permethrin is applied as the deer is leaving the feeder. The corn is not intended as a supplement for the survival of the deer. The Lyme Disease Program is stopped during hunting season so as not to be considered baiting. Due to the overabundance of deer in this area, the PA Game Commission conducted a 2-3 year experiment allowing baiting in just this portion of PA, but has discontinued that experiment for the 2010-2011 season.
- Is there an overpopulation of deer in the Township? Are there statistics specific to Franklin Township? Response: Mr. Mullen stated that the answer for southern Chester County is Yes, there is an overpopulation of deer. The statistics he sees are for southern CC and are not specific to any township. The measures used to determine overpopulation are 1) forest regeneration and health; 2) reproduction; and 3) number of deer/human conflicts. There is almost no forest regeneration in southeast PA. This presents a major problem when you're trying to manage a forest habitat for all wildlife, not just deer. The number of complaints regarding conflicts with deer increases annually, i.e., more crop damage, residential landscaping damage in the thousands of dollars, vehicle collisions and Lyme Disease. He is hearing from farmers that he has never heard from before, orchard growers, commercial vegetable growers, etc. Reproduction is tracked in several ways including checking road kill for fetuses and checking the records at the processing plants used by hunters. Another reason for over-population is that much of the land in CC is privately owned and effective deer management does not occur. As long as this is the case, the only way the Game Commission has to address the problem is to create new seasons, lengthen the existing season, or raise the allocation of tags available to give hunters more opportunity to hunt. Mr. Mullen

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stated that he believes it would be irresponsible on the part of the Township to not provide DM. DM is the most cost effective way to control the deer population. Hunters do it for the privilege of hunting. It's a free service to anyone who wants to take advantage of it.

- Will hunting destroy the endangered species that have been found on certain properties. Response: Mr. Brindle stated again that these properties have been hunted for years and the endangered species still exist.
- Regarding White Clay Crescent Preserve (WCCP), a statement was made about the loss of privacy because the shared driveway is used to enter the Preserve. Response: It is a shared driveway, created decades ago, providing access to the lands of various property owners, including the Township owned WCCP, which was purchased with taxpayer funding to be open space available to the public. The shared driveway, along with a recorded legal right-of-way, have long provided the legally required street access for the parcel that's now the WCCP.
- A resident asked if hunters are allowed to trespass on private property to find a deer that has been shot. Response: Mr. Mullen explained that no one, including a hunter, is allowed to enter onto private property without the owner's permission, regardless of the reason. The law does require that a hunter make every effort to retrieve wounded or killed game. Failure to do so is a violation of the law. However, requiring them to do so does not give them the right to trespass. If the owner refuses to give the hunter access to his land, the hunter should contact the Game Commissioner who will explain the situation to the landowner and escort the hunter onto the property to locate the deer and escort him off the property. It is against the law for the landowner to assume possession of the deer.
- A resident asked how the safety zones would be identified. Response: Mr. Brindle said the DMG is in the process of installing perimeter signs and marking the safety zones by painting trees with two different colors of paint to alert the hunters that they are approaching a gun or an archery DM safety zone. The resident expressed a desire to have signs installed identifying the zones, as well as the painted trees.
- A resident asked how a safety zone is designated. Response: Mr. Mullen advised that the safety zone is the space that surrounds any dwelling capable of housing people or domestic animals. The Firearm Safety Zone is 150 yards. No hunter is allowed in that space, nor can he shoot into or through it unless he has permission of the landowner. Archery Safety Zone is 50 yards from the structure. He explained the different kinds of bows and the ranges of each, stating that the range depends on the purpose. DM archery, from a tree stand, which will be required in the DMP, is generally not effective beyond 20-30 yards. If shooting in an open field into the air, the range is much greater, etc.

Mr. Whipple asked for public comment on other topics. There was none. Regarding the next step for the DMG, he advised that the goal is that the Board will revisit the topic at their October 13<sup>th</sup> meeting. That will depend on whether the Solicitor and the Insurer have finished their review of the documents and whether the DMG can finalize the

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documents in time for the Board's consideration at that meeting. Mr. Whipple thanked the residents for coming out and for keeping the discussion cordial and respectful, even though not everyone is in agreement.

**Adjourn:** The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Sharon Norris  
Township Secretary

BOS 9.15.10.v.3.er