

APPROVED

FRANKLIN TOWNSHIP BOARD OF SUPERVISORS MINUTES FEBRUARY 16, 2011

Call to Order:

Chairman Nan Latimer called the meeting to order at 7:05 p.m. Present were Supervisors Brindle, Skalish and Hughes. Supervisor Overton arrived at 7:55 p.m. Also present were Solicitor Mark Thompson, Assistant Township Mgr. Jeff Eastburn, Township Secretary Sharon Norris, Township Engineers Sandi Morgan and Grant Hitchens. Planning Commission Chairman Ralph Olivier, Zoning Officer Duane Brady and Phil Geoghegan of the Open Space Committee were also in attendance. Engineers Scott Allen and Christie Pace arrived at 7:30. Bob Brechter, Chairman of the OSC, arrived at 7:37 p.m. There were approximately 7 members of the public in attendance.

Announcements: Ms. Latimer announced that there was an Executive Session on Monday, February 7, 2011 at the Solicitor's office in West Chester to discuss interest in acquisition of real estate and there will be an Executive Session following tonight's meeting to discuss real estate interests and ongoing litigation. Ms. Latimer apologized that the revised agenda was not placed on the website in a timely manner stating that copies are available.

Public Comment:

Mr. Bob Vanella, a resident of London Grove Twp. and a reporter for the Avon Grove Sun, spoke in support of the EIT referendum explaining that he has no personal or financial interest in whether or not it is passed. He referenced a letter to the editor published in the Avon Grove Sun which, in his opinion, was filled with misinformation regarding the proposed referendum and the open space program at Franklin Township. He said the misinformation is partly due to the fact that the Township website does not do a good job of explaining the various issues that are of concern to the residents. He said that he intends to write an article, or perhaps a series of articles, to better explain the EIT and the fact that if the EIT open space tax is enacted, the current open space tax will sunset. He feels that if the residents have a clear understanding of what is being proposed they will not have a problem with it.

Approval of Minutes:

- a. BOS Meeting January 12, 2011: Ms. Latimer moved, seconded by Mr. Hughes, that the Board approve the January 12, 2011 minutes as presented by the Township Secretary. Motion carried unanimously.
- b. BOS Meeting January 19, 2011: Ms. Latimer moved, seconded by Mr. Hughes, that the Board approve the January 19, 2011, v.2, minutes as presented by the Township Secretary. Motion passed unanimously.
- c. Resolution 2011-13: Ms. Latimer moved, seconded by Mr. Hughes, that the Board approve Resolution 2011-13 regarding the Disposition of Records for the Board of Supervisors' meetings of January 12 and January 19, 2011, and the Planning Commission meeting of November 4, 2010. Motion passed unanimously.

Reports:

- a. Treasurer's Report: Ms. Latimer moved, seconded by Mr. Hughes, that the Board approve the January 2011 Treasurer's Report which includes the following disbursements: The general fund with disbursements and transfers of \$153,183.94; the Park & Recreation Fund with disbursements of \$6,684.47; the Open Space Fund with disbursements of \$81,717.77;

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Emergency Services Fund with disbursements of \$29.99; Fire Hydrant Fund with disbursements of \$399.30 leaving a balance in all funds totaling \$2,898,157.77. Motion passed unanimously.

- b. Solicitor's Report: Solicitor Mark Thompson reported that the petition filed by the Matsen Family Trust regarding a boundary dispute, has been withdrawn.
- c. Zoning's Officer's Report: The Township's Zoning Officer, Mr. Duane Brady, reported that four new permits were issued and 30 building inspections were completed.

Planning & Zoning:

- a. Planning Commission's Report: Planning Commission Chairman Ralph Olivier summarized the activity at the February 3, 2011 Planning Commission Meeting.
- b. Historical/HARB Commission: There was no meeting in February.

Extensions:

Ms. Latimer moved, seconded by Mr. Hughes, to approve the following extensions:

- Woods Edge to August 28, 2011
- Christens to June 30, 2011
- Sarana, aka Davis, to June 30, 2011.

Mr. Brindle stated that Christens owes the Township approximately \$600. The Treasurer will send a letter reminding them of the outstanding balance.

Motion passed unanimously.

New Business:

- a. Ordinance 2011-02 - On-Lot Sewage Management: Solicitor Thompson opened the Public Hearing and stated that this is an update to the current on-lot sewage management ordinance required by Act 537. The Solicitor marked the following Exhibits: T1: Proof of Publication; T2: Solicitor's letter to the public library; and, T3: The revised Ordinance. The Solicitor briefly described the contents of the Ordinance and advised that it is a fairly standard ordinance written to comply with DEP's requirements. Solicitor Thompson asked for questions from the public. Mr. Auerbach asked about other provisions of the Ordinance. Mr. Thompson provided a summary stating that the basic intent is to enforce regular maintenance of on-lot systems and stated that he could provide a copy of the ordinance to Mr. Auerbach. Ms. Latimer explained the two changes to the original ordinance – one was to simplify the inspection procedure and the other was to correct an inconsistency with the Township's 537 Plan which could possibly compromise the Township's eligibility for any grant reimbursement from DEP. She explained that the only cost to the Township is a small subscription fee which allows the Township to have access to the inspection data. If residents don't pump every 3 years, a notice will be sent by the Township and compliance will be monitored. Mr. Brindle asked the Solicitor to clarify that it is not the intent of the ordinance to require pumping any more frequently than every three years. Mr. Auerbach asked if anyone has done a cost analysis regarding the cost of implementing this program. The Solicitor advised that the program is at the insistence of DEP, the Township does not have an option on whether or not to implement the program. Mr. Brady, the Zoning Officer, advised that DEP will not allow building permits to an applicant who is not in compliance with Act 537. The Solicitor closed the public hearing.

Ms. Latimer moved, seconded by Mr. Hughes, that the Board adopt Ordinance 2011-02, an Ordinance reacting and amending Chapter 18, Part 1 of the Township of Franklin Code of

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Ordinances Governing Municipal Management of On-Lot Sewage Disposal Facilities. Motion carried unanimously.

- b. Lexington Pointe: Ms. Latimer advised that there are two issues to be discussed. The first area for discussion is the proposal made by the applicant at the January 19, 2011 BOS meeting regarding an alternate means of disposing of the waste water generated by the Lexington Pointe subdivision. The Township did not approve the new plan but agreed that the applicant could further investigate the system. Township Engineer Sandi Morgan reported on a meeting she attended last week with the applicant their consultant, and representatives of the DEP. The meeting was requested by the applicant. The Solicitor has drafted a letter to the applicant outlining the terms of a potential agreement that lists items that the applicant must complete prior to doing any engineering work on the newly proposed facility. Ms. Morgan confirmed that the proposed letter is in agreement with the path forward discussed at the meeting with DEP. The Board and the consulting engineers agreed that the letter should be sent to the applicant.

The second area for discussion involved a change to the existing Pump & Haul Agreement which is currently in place at Lexington Pointe. There have been problems with Aqua, the current hauler, and the applicant is changing to McGovern. Changes were made to the parameters for pumping which are set forth in an exhibit to the Agreement. The Solicitor and Engineering consultant recommend approval of the new Agreement. Ms. Latimer moved, seconded by Mr. Hughes, that the Board approve the Agreement made as of today, February 16, 2011, between Franklin Township and Creek LLC. Motion passed unanimously.

- c. Stonegate Lot 6 Re-subdivision Plan: Barry Stingel was present on behalf of the applicant and made a brief statement regarding reasons a re-subdivision of Lot 6, owned by Mrs. Kim Fisher, is required. The re-subdivision is to correct encroachments into the private open space (owned by the Stonegate Homeowner's Association) complicated by a conservation easement held by Brandywine Conservancy. The proposed solution is to transfer 0.129 acres of open space to Lot 6 and 0.129 acres of Lot 6 to HOA-owned open space with certain additional requirements from Brandywine Conservancy. During the Board's discussion, the Solicitor explained that an action was filed with the Court of Common Pleas by the owners of Lots 6 and 7 which required the presiding judge to sign off on an order making the trails and plantings equal to having a pool in certain areas. The Judge refused to sign it until the Township has approved the re-subdivision plan. Therefore, the Township's approval should be subject to the Judge's approval of the Conservancy's agreement.

Ms. Latimer moved, seconded by Mr. Brindle, that the Board of Supervisors approve the Final Re-subdivision Plan of Stonegate Lot 6, dated December 17, 2007, last revised January 12, 2011 with conditions that all necessary final plan approval items, including but not limited to the following, be addressed to the satisfaction of the Township:

1. Completion and execution of all appropriate legal documents in a form acceptable to the Township Solicitor and Township Engineers which form shall be acceptable for recording where appropriate including but not limited to the following:
 - Amendment to Grant of Easement and Declaration of Restrictive Covenants;
 - Execution by the presiding Judge with jurisdiction of the Stipulated Order approving the Amendment to the Grant of Easement & Declaration of Restrictive Covenants;
 - Deeds for Kim Fisher and the HOA, with respect to the transfer out of Lot 6 to open space and from open space to Lot 6, be found acceptable to the Township Solicitor and recorded contemporaneously with the Final Re-subdivision plan.
2. Compliance with any and all outstanding conditions and comments as set forth in the Township consulting engineers' and solicitor's review letters, including but not limited to the following:

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- 1.21.11 review letter of Kohli & Associates
 - 1.24.11 review letter of URS
 - 1.26.11 & 2.2.11 review letters of Lamb McErlane
3. The approval of the Final Re-subdivision Plan to be contingent upon receipt by the Township of Correspondence from DEP indicating the acceptance by DEP of the Request for a Planning Waiver and Non Building Declaration.
 4. The Board of Supervisors accepts the recommendation of the Planning Commission to approve the following waivers requested by the applicant:

From the SLDO:

1. 502.M.1 To not show existing or proposed contours on the plan;
2. 502.M.2 To not show soil types or their boundaries on the plan;
3. 502.M.5 To not show steep slope districts on the plan;
4. 502.M.6 To not show wooded areas or tree lines on the plan;
5. 502.M.9 To not depict protected resources per Section 2403.A of the Zoning Ordinance;
6. 502.Q To not provide an Erosion & Sedimentation Control Plan;
7. 503.C To not require all items required for a Preliminary Plan to the extent as already identified for waiver in the prior listed SLDO section for waiver;

Finally, conditioned upon payment of all outstanding and expected legal and consultant review expenses, and the funding of any and all appropriate escrow accounts in accordance with Township policies, prior to the release of plans and agreements for recording.

Ms. Latimer stated that the reason the Planning Commission recommended approval of the waivers is because there is no planned development or construction activity and therefore no disturbance is expected that could be impacted by any of these SLDO sections.

Motion passed unanimously.

- d. Resolution 2011-14 – Franklin Chase Road Dedication: Township Engineer Grant Hitchens provided the background for this item. Mr. Hitchens is satisfied that the improvements over the past several years have brought the roads up to acceptable standards. Mr. Eastburn stated that New London is also considering accepting dedication tonight. Mr. Ippolito brought in a check for \$5,000 tonight and also gave a check to Trish Fagan of New London Township. The Solicitor said that all legal agreements are in order. Ms. Latimer moved, seconded by Mr. Skalish, that the Board adopt Resolution 2011-14 regarding the Township's acceptance of dedication of the roadbeds within the Franklin Chase Development and said related documents to such dedication which shall include the Maintenance Agreement, acceptance of the Financial Security and the Declaration of Easement. Motion passed unanimously.
- e. 2011 Road Program: Township Engineer Scott Allen summarized the 2011 Township Road Program referencing his memo of February 8, 2011. He listed the roads that are slated for repair as well as a list of add alternates, and provided a brief summary of the work that is planned. He is seeking approval from the Board to advertise for bids on Wednesday February 23rd and Monday February 28th with bid awards on March 16, 2011. He emphasized the need to advertise for bids early to beat the rush, get the best bids and to avoid an escalator clause due to increasing gas prices. Mr. Allen answered the Board's questions emphasizing the improvements to the structural integrity of the Township Roads since 2007 when the 10 year plan was put in place.

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The roads and add alternates being considered for this year's program are as follows:

- Walker Road down to the intersection of Johnson Lane;
- Gypsy Hill Road the entire length;
- Johnson Lane the entire length;
- Church Hill Road, another portion of Church Hill Rd., approximately 500 ft. east of the existing bridge down to the existing seam of work completed previously;
- Pennbrooke Drive the entire length;

Add Alternates:

- Add Alternate A – Inlet Box Repair;
- Add Alternate B – Municipal Parking Lot;
- Add Alternate C – Basketball Court at Crossan Park;
- Add Alternate D – continue work on Walker Rd. from Johnson Lane to Mt. Olivet Rd.

Supervisor Overton arrived during the road presentation.

Ms. Latimer moved, seconded by Mr. Hughes, that the Board authorize the advertisement of the 2011 Franklin Township Road Program Bid Package as outlined in McCormick Taylor's February 8, 2011 memo. The motion passed unanimously.

f. Trails: Mr. Phil Geoghegan introduced Jake Michael of the Chester County Planning Commission (CCPC) who is also the CCPC's liaison to the White Clay Creek Wild & Scenic River Committee. Mr. Michael gave the Board an overview of the County's plans for a regional trail system linking a series of municipal trails with the White Clay Creek Trails system, the Delaware Trail System and the Fair Hill Trail System. The municipalities involved are London Britain, Franklin, London Grove, New Garden, Avondale and West Grove. A Memo of Understanding is now in place stating that all the municipalities have Trail Planning as part of their Comprehensive Plans and it is their intent to cross boundaries, linking the various trail systems. Mr. Michael is heavily involved with his counterparts in Delaware and is becoming more involved with the Fair Hill trails committee. He said it is important to take the regional networking approach when seeking grant money. He will be distributing a document to the White Clay Creek Committee detailing the regional networking approach on February 20, 2011 which will become an attachment to any grant application.

g. Authorization to advertise Ordinances: Ms. Latimer explained that five (5) ordinances have been updated and/or amended and now need to be advertised for adoption.

Ms. Latimer moved, seconded by Mr. Overton, to authorize the Solicitor to advertise the following ordinances for adoption as recommended by the Planning Commission:

- An Ordinance amending the regulations governing a "Winery Accessory To Agriculture" use in the Zoning Ordinance of Franklin Township, Ordinance 95-07 as amended;
- An Ordinance of Franklin Township, Chester County, Commonwealth of Pennsylvania pursuant to the authority of the Pennsylvania Municipalities Planning Code, amending the Franklin Township Subdivision and Land Development Ordinance, to revise Chapter 22, §714 to incorporate Chapter 441 of the Pennsylvania code regulating driveways;
- An Ordinance of Franklin Township, Chester County, Commonwealth of Pennsylvania, pursuant to the authority of the Pennsylvania Municipalities Planning Code, amending the Franklin Township Subdivision and Land Development Ordinance, to revise Chapter 22, §202 and 610 and Chapter 27 §202 of the Zoning Ordinance providing tree planting measurements and size requirements;

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- An Ordinance of Franklin Township, Chester County, Commonwealth of Pennsylvania pursuant to the authority of the Pennsylvania Municipalities Planning Code, amending the Franklin Township Zoning Ordinance to revise chapter 27, Part 19, §27-1904 regulating installation of mobile homes; and Part 8, § 27-804 establishing a 20 ft. rear yard setback.

Motion passed unanimously.

- h. Resolution 2011-16 Open Space Appraisal: Ms. Latimer moved, seconded by Mr. Overton, that the Board approve Resolution 2011-16 authorizing the expenditure of \$5,000 for an appraisal for a conservation easement on 127.9 acres identified as tax parcels 72-5-56, 72-5-56.5, 72-5-63 and 72-5-63.1A located west of Good Hope Rd. and south of Parsons Rd.
- i. Letters of Support for Natural Lands Trust (NLT): Ms. Latimer moved, seconded by Mr. Overton, to authorize the Chairman of the Board to send letters to Natural Lands Trust indicating the Township's support of NLT's attempt to acquire conservation easements on the following 3 properties:
- The first comprises approximately 102 acres and is known as tax parcels 72-2-61, located east of Creek Rd. and west of Auburn Rd.; 72-2-63, located east of Auburn Rd.; and 72-2-49, located west of Creek Rd.
 - The second comprises approximately 120 acres and is known as tax parcels 72-5-56.5, 72-5-63 and 72-5-63.1A, located south of Parsons Rd. and west of Good Hope Rd.
 - The third comprises 28.1 acres and is known as tax parcel 72-5-38.3, located east of Franklin Rd. and north of Walker Rd.

Discussion: Mr. Brindle asked Ms. Latimer to make a separate motion for each property. The above motion failed.

Ms. Latimer moved, seconded by Mr. Hughes, to authorize the Chairman of the Board to send a letter to Natural Lands Trust indicating the Township's support of NLT's attempt to acquire a conservation easement on the property comprised of 102 acres and known as tax parcels 72-2-61, located east of Creek Rd. and west of Auburn Rd.; 72-2-63, located east of Auburn Rd.; and 72-2-49, located west of Creek Rd. Motion passed 4-1, with Mr. Brindle voting nay.

Ms. Latimer moved, seconded by Mr. Brindle, to authorize the Chairman of the Board to send a letter to Natural Lands Trust indicating the Township's support of NLT's attempt to acquire a conservation easement on the property comprised of approximately 120 acres and known as tax parcels 72-5-56.5, 72-5-63 and 72-5-63.1A, located south of Parsons Rd. and west of Good Hope Rd. Motion passed unanimously.

Ms. Latimer moved, seconded by Mr. Brindle, to authorize the Chairman of the Board to send a letter to Natural Lands Trust indicating the Township's support of NLT's attempt to acquire a conservation easement on the property comprised of 28.1 acres and known as tax parcel 72-5-38.3, located east of Franklin Rd. and north of Walker Rd. Motion passed unanimously.

- j. Resolution 2011-17 – Chester County Grant Application: Ms. Latimer moved, seconded by Mr. Overton to approve Resolution 2011-17 approving the filing of an application for Chester County Municipal Grant Program Assistance. Motion passed unanimously.

Public Comment: Mr. Hatton asked what the tax parcel number is for the last motion.

Adjourn: Ms. Latimer adjourned the meeting at 8:22 p.m.

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Respectfully submitted,

Sharon Norris
Township Secretary

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